

# LOCAL GOVERNMENT LAW AND ADMINISTRATION IN ENGLAND AND WALES

VOLUME XVII

1940

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A. N. C. SHELLEY, ESQ., M.A., B.C.L. (Oxon.)

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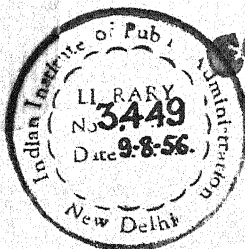
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## PUBLISHERS' NOTE

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THIS volume contains the relevant Statutes, Orders, Circulars and Memoranda, Cases and Decisions of the year 1940. The same classification of titles has been followed as in the first continuation volume (Vol. 15), the emergency legislation being dealt with under the various titles.

There are few 1940 statutes of outstanding importance affecting local government. The Old Age and Widows' Pensions Act contains consequential adjustments in respect of exchequer grants payable to Local Authorities; the War Charities Act is in outline the same as that of 1916 which it repeals; the Local Elections and Register of Electors (Temporary Provisions) Act continues in force the 1939 Act with amendments; the Rating and Valuation (Postponement of Valuations) Act is designed to avoid expenditure of time in preparing new valuation lists; and the Agriculture (Miscellaneous War Provisions) Act gives increased powers in relation to land drainage to county and borough Councils and to drainage Boards, and permits grants from public moneys for mole drainage.

The Orders made under the emergency legislation are already extremely numerous, and their number increases *de die in diem*. Obviously it is impossible to publish them all, though the Editors are assured they have selected everything of general importance. The annotation is up to date to the 1st April, 1941, that is to say any changes or modifications of the law for 1940 up to that date have been noted, although, of course, the legislation itself for the year 1941 falls to be included in the next volume. It must not be assumed, however, that the annotation is up to date at the time of publication.

The second cumulative supplement is in active preparation and will be published shortly, bringing up to date the titles in the main work and continuation volumes.

BUTTERWORTH & Co. (Publishers), LTD.

October, 1941.

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Attorney-General	..	..	..	..	A.-G.
Brothers	..	..	..	..	Bros.
Company	..	..	..	..	Co.
Corporation	..	..	..	..	Corpn.
Home Office	..	..	..	..	H.O.
Justices	..	..	..	..	JJ.
Limited	..	..	..	..	Ltd.
London County Council	..	..	..	..	L.C.C.
Local Government Act	..	..	..	..	L.G.A.
Medical Officer of Health	..	..	..	..	M.O.H.
Ministry of Agriculture and Fisheries	..	..	..	..	M. of A.
Ministry of Health	..	..	..	..	M. of H.
Ministry of Transport	..	..	..	..	M. of T.
Public Health Acts	..	..	..	..	P.H.A.
Railway Company	..	..	..	..	Rail. Co.
Rating and Valuation Act	..	..	..	..	R. & V.A.
Rural District Council	..	..	..	..	R.D.C.
Statutory Rules and Orders	..	..	..	..	S. R. & O.
Urban District Council	..	..	..	..	U.D.C.

## **THE ENGLISH AND EMPIRE DIGEST**

In addition to the usual citation of the reports of cases in the footnotes, there will be found a reference to the volume, page, and case number at which the case appears in the Digest. Thus:

*Bennett v. Stepney Borough Council*, [1912], 107 L.T. 383 ;  
38 Digest 101, 730.

## **HALSBURY'S COMPLETE STATUTES OF ENGLAND**

References to Public Acts of Parliament are followed by a reference to the volume and page at which the Act or section of the Act appears in Halsbury's Complete Statutes of England. Thus:

The Local Government Act, 1933; 26 Halsbury's Statutes  
295.

## **ALL ENGLAND LAW REPORTS**

After cases heard since February, 1936, references are given to this series of reports thus:

*Clarke v. Bethnal Green Borough Council*, [1939] 2 All  
E. R. 54.

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## ACTIONS BY AND AGAINST LOCAL AUTHORITIES

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### CASES

*Liability of Owner—Hire of Deck Chair—Conditions Negating Liability—Conditions on Notice Exhibited where Chairs Stacked—Further Conditions on Ticket.*

Respondent council provided deck chairs for persons desiring to use them on the beach. The vacant chairs were stacked up on the beach, and beside them was a notice reading as follows: "Barry Urban District Council. Cold Knap. Hire of chairs. 2d. per session of 3 hours." Appellant received two such chairs from the attendant and, upon payment of the fee, two tickets, which he immediately put in his pocket without examination. On the back of the tickets these words were printed: "... The Council will not be liable for any accident or damage arising from hire of chair." The canvas of the chair which appellant used gave way and he was injured:—

*Held:* in the circumstances, appellant was entitled to assume that all the conditions of hire were contained in the notice near the stack of chairs, and was not bound by the conditions printed on the back of the ticket. He was, therefore, entitled to recover damages in respect of his injuries.—CHAPELTON v. BARRY URBAN DISTRICT COUNCIL, [1940] 1 K. B. 532; [1940] 1 All E. R. 356; 109 L. J. K. B. 213; 162 L. T. 169; 104 J. P. 165; 56 T. L. R. 331; 84 Sol. Jo. 185; 38 L. G. R. 149—C. A. [1]

*Limitation of Actions—Prisoner on remand provided with furnished cell in pursuance of contract with Prison Commissioners—Injury suffered through alleged defect in china chamber provided—Whether Prison Commissioners a Public Authority—Prison Act, 1877 (c. 21), ss. 6, 9, 39—Public Authorities Protection Act, 1893 (c. 61), s. 1—Prison Rules, 1933 (S. R. & O., 1933, No. 809), r. 122.*

Plaintiff was committed to prison on remand, and, in consideration of a sum of 12s. per week paid by him to the prison commissioners, was provided with a furnished cell, which contained, *inter alia*, a china chamber. While plaintiff was using this chamber on March 7, 1938, it split into a number of pieces, owing to pressure put upon it, and one of these pieces pierced the plaintiff's spine. On May 11, 1939, plaintiff issued a writ against the prison commissioners in respect of injuries thereby suffered, and the prison commissioners raised the defence, *inter alia*, that the action was barred by reason of the provisions of Public Authorities Protection Act, 1893. The prison commissioners are a body corporate constituted under the provisions of the Prison Act, 1877, s. 6. Section 39 of the Act and the rules made thereunder permit a prisoner on remand to occupy, on payment of a small sum fixed by the commissioners, a cell specially fitted and suitably furnished, and it was assumed that it was in pursuance of a contract made with the commissioners in accordance with those provisions that plaintiff was provided with the cell and with the chamber :—

*Held* : the provision of the china chamber was an act done by the prison commissioners in pursuance or execution or intended execution of a public duty, and the action was, therefore, out of time and barred by reason of the Public Authorities Protection Act, 1893.

Decision of MACNAGHTEN, J., ([1940] 2 All E. R. 499), *affd.*—JACOBY v. PRISON COMMISSIONERS, [1940] 3 All E. R. 506—C. A. [2]

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### CASES

*Aerial Traffic—Aerodromes—Licensing Conditions—Obstructions in Vicinity of Aerodrome—Aeroplane Accident Due to Unlighted Obstruction—Obstruction Present in Contravention of Condition—Contributory Negligence of Pilot—Air Navigation (Consolidation) Order, 1923 (S. R. & O., 1923, No. 1508), r. 5 (2), Sched. IV, Sect. II, 16 (2) (a) (ii).*

Plaintiff was injured through striking some trees when landing an aeroplane at night on an aerodrome in respect of which a licence had been granted to defendants under the Air Navigation (Consolidation) Order, 1923, r. 5 (2). The licence provided for the use of the aerodrome for the landing or departure of any aircraft carrying passengers for reward and one of the conditions of the licence was that no obstruction in the line of flight beyond the perimeter and within half a mile of the aerodrome should subtend at the nearest point of the perimeter a greater angle than 5° 30' (approximately 1 in 10). The trees into which plaintiff crashed were about 50 yards outside the perimeter of the

aerodrome, and were admittedly there in breach of the condition. There were two floodlights in operation, the green light was showing on the control tower, and plaintiff was landing by the radio beacon. The trees were not indicated by fixed red lights as is required by the Air Navigation (Consolidation) Order, 1923, Sched. IV, Sect. II, 16 (2) (a) (ii) in the case of dangerous obstructions within 1,000 yards of the boundary of the landing area. It was contended that the condition inured only for the benefit of persons landing in an aircraft carrying passengers for hire or reward, and that plaintiff, who was engaged in Army co-operation work, could not avail himself of its breach. It was also contended that plaintiff had been guilty of contributory negligence in that, as he knew of the existence of the trees, he was in fault in hitting them :—

*Held* : (i) since the presence of the trees constituted a breach of the statutory condition, plaintiff was entitled to succeed, and the fact that the aeroplane was not carrying passengers was immaterial. Even apart from statute, he was entitled to succeed at common law on the ground that the trees constituted a trap ;

(ii) plaintiff had not been guilty of contributory negligence, for the mere fact that he knew of the existence of the trees without their significance making an impression on his mind was not sufficient to constitute contributory negligence.—*HESKETH v. LIVERPOOL CORPN.*, [1940] 4 All E. R. 429. [3]

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## ADOPTION OF CHILDREN

*See* INFANTS, CHILDREN AND YOUNG PERSONS.

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## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL ADDING REGULATION 23B TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 840*

*May 29, 1940*

\* \* \* \* \*

**23B. Erection of air-raid shelters.**—(1) Where before the first day of June, nineteen hundred and forty, the occupier of any premises has been provided free of charge on behalf of His Majesty with corrugated steel materials for the erection of an air-raid shelter and has not erected a proper shelter on the premises with those materials, the following provisions shall have effect :—

- (a) the person occupying the premises on the said first day of June shall, before the eleventh day of June, nineteen hundred and forty, either cause a proper shelter to be erected on the premises with those materials or give notice in writing to the local authority that no such shelter has been so erected ;
- (b) every such notice shall state the reason why a proper shelter has not been erected on the premises with the materials ;
- (c) where such a notice is given to the local authority, they shall as soon as practicable either themselves cause a proper shelter to be erected on the premises with the materials or remove the materials from the premises ;
- (d) where such a notice is not given to the local authority before the said eleventh day of June, and they are satisfied that a proper shelter has not been erected on the premises, they shall as soon as practicable remove the materials from the premises ;
- (e) the local authority shall store any materials removed by them as aforesaid and comply with any directions of the Minister of Home Security as to their disposal.

(2) For the purpose of this Regulation, a proper shelter shall not be deemed to have been erected with the materials provided on behalf of His Majesty unless those materials have been formed into an air-raid shelter, and covered with earth of a minimum thickness of fifteen inches on the top, and thirty inches at the sides and back, of the shelter.

- (3) In this Regulation the expression "local authority" means—
- (a) in relation to any premises in the City of London, the Common Council of the City ;
  - (b) in relation to any premises in a metropolitan borough, the council of the borough ;
  - (c) in relation to any other premises in England, the council for the county borough or county district in which the premises are situated ;
  - (d) in relation to any premises in Scotland, the council of the county or burgh in which the premises are situated.
- (4) This Regulation shall not extend to Northern Ireland. [4]

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## ORDER IN COUNCIL ADDING REGULATION 29A TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 845*

*May 31, 1940*

\* \* \* \* \*

**29A. Co-ordination and control of certain civil defence functions of local authorities.**—(1) The appropriate Minister (hereafter in this Regulation referred to as "the Minister") may give such directions as appear to him to be necessary or expedient in the interests of the public safety or the defence of the realm—

- (a) extending or reducing the area in which all or any of the civil defence functions of a local authority are to be exercised ;
- (b) transferring all or any of the civil defence functions of a local authority to another local authority or to himself or to any person appointed by him ;
- (c) making provision for requiring local authorities having civil defence functions to co-operate in the discharge thereof ;
- (d) placing any services provided by a local authority in the discharge of its civil defence functions wholly or partly under the control of another local authority or of himself or of any person appointed by him ;

and may give directions making provision for any matters which appear to the Minister to be incidental to or consequential on any directions given by him under the foregoing provisions of this paragraph.

(2) The Minister may by order—

- (a) make provision for the making of payments by local authorities in respect of things done in pursuance of any directions given under the last foregoing paragraph, being things which, apart from the directions, that authority would have been empowered or required to do ;
- (b) provide for the making of such financial adjustments between any local authorities affected by any such directions as appear to the Minister to be just having regard to the directions.

(3) The Minister may give to a local authority having civil defence functions such directions as to the manner in which and the persons by

whom those functions are to be discharged, and as to the appointment and dismissal of such persons as appear to the Minister to be necessary or expedient in the interests of the public safety or the defence of the realm.

(4) The Minister may require any person employed (whether voluntarily or in pursuance of any contract) by a local authority in connection with the discharge of the civil defence functions of that authority to do such acts and carry out such operations (whether inside or outside the area of the authority) for the purpose of protecting persons and property against hostile attack or mitigating the consequences thereof as the Minister may specify.

(5) In this Regulation the expression "civil defence functions" has the meaning assigned to it by section ninety of the Civil Defence Act, 1939, but includes also all functions relating to the extinction of fires whether exercisable under that Act or otherwise.

(6) The Minister may, to such extent and subject to such restrictions as he thinks proper, delegate all or any of his functions under paragraphs (1), (3) and (4) of this Regulation to any specified persons or class of persons.

(7) In this Regulation the expression "the appropriate Minister" means, in relation to the functions of local authorities in England under Part VII of the Civil Defence Act, 1939, the Minister of Health, in relation to the functions of local authorities in Scotland being functions under the said Part VII or functions relating to the extinction of fires the Secretary of State, and, in relation to any other civil defence functions of local authorities the Minister of Home Security :

Provided that the power conferred upon the Minister of Home Security by section one of the Civil Defence Act, 1939, to make arrangements for the exercise on his behalf by any other Minister of the Crown of any of his functions under that Act or under the Air-Raid Precautions Act, 1937, shall include power to make arrangements for the exercise by any such Minister of any of his functions under this Regulation.

(8) The operation of section seventy-three of the Civil Defence Act, 1939, shall be suspended during the continuance in force of this Regulation. [5]

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## ORDER IN COUNCIL . . . AMENDING REGULATION 29A OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1940, No. 1968

*November 8, 1940*

\* \* \* \* \*

1. At the end of paragraph (5) of Regulation twenty-nine A of the Defence (General) Regulations, 1939 (hereinafter referred to as "the principal Regulations"), there shall be added the words "and all functions whether exercisable under that Act or otherwise relating to the provision of food, lodging or services for persons who have been rendered homeless or have left their homes in consequence of war operations." [6]

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## ORDER IN COUNCIL ADDING REGULATION 29B TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 906*

*June 4, 1940*

\* \* \* \* \*

**29B. Power to require persons to continue in police and civil defence employment.**—(1) A Secretary of State, or the Minister of Health, may by order provide for requiring persons employed as constables, and persons in the service of local authorities employed in any capacity to which this Regulation applies, to continue in such employment until their services are dispensed with in accordance with the provisions of the order :

Provided that no order made under this Regulation shall apply to persons employed without remuneration.

(2) The capacities to which this Regulation applies are : any capacity in which persons are employed at control or report centres, the capacity of air-raid warden, and any capacity as a member by any first-aid, ambulance, rescue, or decontamination service, or of any service carrying out functions relating to the extinction of fires exercisable by local authorities whether under the Civil Defence Acts, 1937 and 1939, or otherwise.

(3) Any order under this Regulation may be made so as to apply either generally or to a particular area and either to persons employed as aforesaid generally, or to any class or description of such persons.

(4) This Regulation shall in its application to Scotland have effect as if the reference to the Minister of Health were omitted.

(5) This Regulation shall not extend to Northern Ireland. [7]

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## ORDER IN COUNCIL AMENDING REGULATION 100 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 941*

*June 11, 1940*

\* \* \* \* \*

**2.** In paragraph (7) of Regulation one hundred of those Regulations, for the words "the Emergency Powers (Defence) Act, 1939" there shall be substituted the words "the Emergency Powers (Defence) Acts, 1939 and 1940". [8]

\* \* \* \* \*

# ORDER IN COUNCIL . . . ADDING REGULATIONS 23C, 23D . . . TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1016*

*June 19, 1940*

\* \* \* \*

3. After Regulation twenty-three B of the principal Regulations there shall be inserted the following Regulations—

**23c. Suspension of s. 9 (3) of Civil Defence Act, 1939.**—The operation of subsection (3) of section nine of the Civil Defence Act, 1939 (which requires certain notices to be given by local authorities who construct air-raid shelters in streets), shall be suspended during the continuance in force of this Regulation, without prejudice, however, to the provisions of subsection (4) of that section. [9]

**23D. Extension of powers of Minister under Civil Defence Act, 1939, as to camouflage.**—Section eighty-nine of the Civil Defence Act, 1939, shall have effect as if, after subsection (6) thereof, there were inserted the following subsection—

“(6A) In relation to the provisions of Part VI of this Act relating to camouflage (that is to say in relation to section forty-five thereof and sections forty-six and forty-seven thereof in so far as they relate to the matters dealt with by the said section forty-five) this section shall have effect as if, in subsection (2) thereof, the words ‘in which more than fifty persons work’ were omitted.” [10]

\* \* \* \*

# ORDER IN COUNCIL AMENDING REGULATION 100 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1135*

*July 2, 1940*

\* \* \* \*

5. In paragraph (1) of Regulation one hundred, after the definition of “public utility undertaking” there shall be inserted the following definition :—

“ ‘Regional Commissioner’ means a person appointed by His Majesty to be a Regional Commissioner for the co-ordination of measures of civil defence.” [11]

\* \* \* \*

# ORDER IN COUNCIL . . . AMENDING REGULATION . . . 23 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1750*

*September 27, 1940*

\* \* \* \* \*

3. For paragraph (1) of Regulation twenty-three of the principal Regulations there shall be substituted the following paragraphs :—

“(1) Subject to the provisions of this Regulation, any local authority may direct that any premises, or part of any premises in the area of that authority may be used as a shelter for affording protection to persons from war operations.

(1A) Any such shelter shall be open to such number of persons, such descriptions of persons, or such number of persons of such descriptions, as may be specified in the directions, and shall, according as the directions may specify, be open either at all times or during particular times in the day or night or under particular circumstances, and, if and so far as the directions so provide, shall be open as aforesaid notwithstanding that there is no hostile attack in progress and that there is no reason to apprehend that such an attack is imminent.

(1B) Any such directions may make provision as to the manner in which the shelter may be used.

(1C) The local authority giving any such directions may require any person occupying or having control of the shelter, or of any premises or part of any premises adjacent to the shelter, to take such steps as may be specified by the local authority—

(a) to enable persons entitled to use the shelter to obtain access thereto ; and

(b) to render available any existing facilities for ventilating, draining, lighting and heating the shelter and lighting the means of access to the shelter.

(1D) Whether or not any such requirement is made as is mentioned in the last preceding paragraph, if any shelter is not open at a time at which, or as the case may be, in the circumstances in which it is required to be open by such directions as aforesaid, any constable or any person authorised in that behalf by the local authority giving the directions, may take such steps and use such force as may be reasonably necessary in order to enable the shelter to be used in accordance with the directions ; but, subject as aforesaid, nothing in this Regulation shall be construed as entitling any person to enter the shelter when force is necessary for the purpose.

(1E) Any directions given before the twenty-seventh day of September, nineteen hundred and forty, under paragraph (1) of this Regulation as in force before that day shall continue to have effect until revoked by directions given under the foregoing provisions of this Regulation on or after the said date.

(1F) The powers conferred by the preceding provisions of this Regulation on local authorities shall not be exercisable by any local authority except with the authority of the Secretary of State and subject to any restrictions and conditions imposed, and in accordance with any directions given, by him.” [12]

\* \* \* \* \*

## ORDER IN COUNCIL ADDING REGULATION 23CB . . . TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 2002*

*November 19, 1940*

\* \* \* \* \*

1. After Regulation twenty-three CA of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

**23CB.** Section sixty-seven of the Civil Defence Act, 1939 (which relates to equipment, appliances and material provided by the Crown or local authorities) shall have effect as if—

(a) in sub-section (1) after the words “ His Majesty ” in the second place where they occur there were inserted the words “ and in the case of materials provided for an air-raid shelter to be erected on any premises or appliances provided for strengthening the basement of any premises, any person authorised to act on behalf of His Majesty may enter the premises and remove the materials or appliances ” ;

(b) at the end of sub-section (2) there were added the words “ and any person authorised to act on behalf of the local authority may enter the premises and remove the equipment, appliances or material.” [13]

\* \* \* \* \*

## ORDER IN COUNCIL ADDING REGULATIONS . . . 23AB, 23AC AND 23BA TO THE DEFENCE (GENERAL) REGULATIONS, 1939, AND AMENDING REGULA- TIONS 23 AND 29A OF THOSE REGULATIONS

*S. R. & O., 1940, No. 2064*

*December 4, 1940*

\* \* \* \* \*

2. For Regulation twenty-three of the principal Regulations there shall be substituted the following Regulation :—

**23. “ Provision of public shelters in private premises.—**(1) Any local authority authorised by the Minister of Home Security to exercise the powers conferred by this Regulation may direct that any premises or part of any premises in the area of that authority may, notwithstanding that they would not otherwise be open to the public, be used as a shelter for affording protection to persons from war operations :

Provided that the powers conferred upon any local authority by this Regulation shall be exercisable by that authority subject to any restrictions and conditions imposed by the Minister of Home Security and in accordance with any directions given by him.

(2) The local authority by which any such direction as aforesaid is given with respect to any premises or part of any premises shall give directions under paragraph (1) of Regulation twenty-three AB of these Regulations as to the times at which they may be used for the purpose aforesaid.

(3) It shall be the duty of any person occupying or having control of any premises or part of any premises with respect to which any direction given by a local authority under paragraph (1) of this Regulation is in force, or of any premises or part of any premises adjacent thereto, to take such steps as he may be required to take by that local authority—

- (a) to enable persons entitled to use the shelter to obtain access thereto, and
- (b) to render available any existing facilities for ventilating, draining, lighting and heating the shelter and the means of access thereto.

(4) This Regulation shall, in its application to Northern Ireland, have effect as if for the references to the Minister of Home Security there were substituted references to the Secretary of State." [14]

3. After Regulation twenty-three A of the principal Regulations there shall be inserted the following Regulations :—

**23AB. "Control and management of public shelters.**—(1) A local authority authorised by the Minister of Home Security (hereinafter referred to as 'the Minister') to exercise the powers conferred by this paragraph may, as respects any public shelter in its area—

- (a) give directions for all or any of the following purposes, that is to say, to determine the times at which the shelter may be used, to determine the circumstances in which the shelter may be used, to determine the number of persons by whom the shelter may be used, and to determine the description of persons by whom the shelter may be used, and by any such directions make provision for restricting the use of the shelter to different numbers of different descriptions or both different numbers and different descriptions of persons at different times ;
- (b) institute such system of admission to the shelter, whether by the issue of tickets or otherwise, as appears to the local authority to be expedient for giving effect to any such directions as aforesaid.

Any direction under this paragraph determining the times at which a public shelter may be used may provide that the shelter may be used at all times or at such times as may be specified in the direction, and any such direction determining the circumstances in which such a shelter may be used may provide that the shelter may be used whether or not any hostile attack is in progress and whether or not there is reason to apprehend that such an attack is imminent.

(2) Any such local authority may appoint any person to be a shelter warden for any public shelter or public shelters in its area.

(3) Subject to any instructions given by the local authority by which he was appointed, a shelter warden shall, with respect to any public shelter under his control, have power—

- (a) to require any person using the shelter to use such part thereof as he may determine ;
- (b) to require to leave the shelter any person who in his opinion is not entitled to be therein or who appears to him to be committing any offence against this Regulation or to be in such a condition as to be dangerous or offensive to other persons using the shelter ;

- (c) to require any person to leave the shelter if in his opinion it is necessary so to do by reason of the shelter being full or for reasons of safety ;
- (d) to require a person not to enter the shelter upon any ground upon which, under the last two foregoing sub-paragraphs, he could have required that person to leave the shelter ;
- (e) to use such force as may be reasonable for the purpose of securing compliance with any requirement imposed under sub-paragraphs (a) (b) (c) or (d) of this paragraph ; and
- (f) to admit any person to the shelter notwithstanding that, by virtue of any directions given under this Regulation, he is not entitled to use the shelter, or, as the case may be, not entitled to use the shelter at that time.

(4) The powers conferred upon any local authority by this Regulation shall be exercisable by that authority subject to any restrictions and conditions imposed by the Minister and in accordance with any directions given by him.

(5) The Minister may make rules as to the management of public shelters and for regulating the conduct of persons therein, and in particular may, by any such rules, make such provision for the exclusion of persons from public shelters as appears to the Minister to be expedient for the purpose of preserving order and decency in such shelters and the health of persons using them.

Any such rules may contain different provisions with respect to shelters in different areas.

(6) The Minister may, subject to such restrictions and conditions as he thinks fit to impose, delegate his powers under the last foregoing paragraph to any specified person or class of persons.

(7) In this Regulation the expression 'public shelter' means any shelter to which the public or any section of the public is entitled or permitted to have access for the purpose of obtaining protection from war operations.

(8) This Regulation shall, in its application to Northern Ireland, have effect as if for the references to the Minister of Home Security there were substituted references to the Secretary of State. [15]

**23Ac. Access to public shelters.**—(1) If any public shelter is not open at a time at which, or, as the case may be, in the circumstances in which it is required to be open by virtue of any directions given under these Regulations, any constable or any person authorised in that behalf by a local authority having power to give such directions with respect to the shelter may take such steps and use such force as may be reasonably necessary in order to enable the shelter to be used in accordance with any such directions as aforesaid ; but, subject as aforesaid, nothing in any such directions shall be construed as entitling any person to enter any public shelter when force is necessary for the purpose.

(2) Subject to the provisions of paragraph (3) of Regulation twenty-three AB of these Regulations, no person shall—

- (a) wilfully obstruct any person entering or seeking to enter any public shelter in which he is entitled to be ;
- (b) eject from any public shelter any person who is entitled to be therein ;
- (c) wilfully obstruct any entrance to or exit from a public shelter.

(3) In this Regulation the expression ' public shelter ' has the meaning assigned to it by Regulation twenty-three AB of these Regulations." [16]

4. After Regulation twenty-three B of the principal Regulations there shall be inserted the following Regulation :—

**23BA. " Provision for reducing casualties in places of public resort.—**The Secretary of State may, by an order made as respects the United Kingdom or any area therein, prohibit or restrict, or empower a chief officer of police to prohibit or restrict, assemblies of persons and the use of premises or any class of premises as places of public resort, in so far as such prohibition or restriction appears to the Secretary of State or chief officer of police, as the case may be, to be necessary in order to minimise the risk of loss of life or personal injuries being caused in consequence of war operations ; and any constable may take such steps, and use such force, as may be reasonably necessary to secure compliance with any order under this paragraph." [17]

5.—(1) In paragraph (8) of Regulation twenty-nine A of the principal Regulations, after the word " of " where that word occurs for the third time there shall be inserted the words " the foregoing provisions of."

(2) After the said paragraph (8) there shall be inserted the following paragraph—

" (8A) The Minister of Home Security may direct, in relation to the whole or any specified part of the area of any specified local authority or in relation to any specified premises, or part of any premises, in the area of any specified local authority, that all or any of the powers which are exercisable, or, with the authority of the Minister of Home Security, could be made exercisable by that local authority under Regulations twenty-three or twenty-three AB or twenty-three AC of these Regulations shall be exercisable, or also exercisable, by such person as may be specified in the direction, subject, however, to any restrictions and conditions imposed, and in accordance with any directions given, by the Minister of Home Security, and the said powers shall be exercisable accordingly, including, if the Minister of Home Security so directs, the power to revoke or vary any directions, requirement or authority previously given by the local authority."

(3) In paragraph (9) of the said Regulation twenty-nine A, at the end of sub-paragraph (b) the word " and " shall be omitted, and after sub-paragraph (c) there shall be inserted the following words—

" and

(d) for the references to the Minister of Home Security there shall be substituted references to the Secretary of State." [18]

6.—(1) Any direction given under paragraph (1) of Regulation twenty-three of the principal Regulations before the fourth day of December nineteen hundred and forty (including any direction given under the said paragraph (1) before the twenty-seventh day of September nineteen hundred and forty) shall, after the said fourth day of December, be deemed to have been given under the Regulation substituted therefor by this Order and under Regulation twenty-three AB of the principal Regulations.

(2) Any requirement made under paragraph (1c) of Regulation twenty-three of the principal Regulations before the said fourth day of December shall thereafter be deemed to have been made under the Regulation substituted therefor by this Order.

(3) Proceedings in respect of a contravention of paragraph (2) of the said Regulation twenty-three before the said fourth day of December, may be instituted, and any proceedings in respect of such a contravention pending immediately before the said day may continue, and any penalties imposed in any such proceedings may be enforced, as if this Order had not been made.

(4) Any order made under paragraph (3) of the said Regulation twenty-three before the said fourth day of December, shall thereafter be deemed to have been made under Regulation twenty-three BA of the principal Regulations.

(5) Any order made under paragraph (4) of the said Regulation twenty-three before the said fourth day of December, shall thereafter be deemed to have been made under Regulation fourteen B of the principal Regulations. [19]

\* \* \* \* \*

## ORDER IN COUNCIL AMENDING REGULATIONS 60AA AND 93 AND REVOKING REGULATIONS 48A AND 78 OF, AND ADDING A THIRD SCHEDULE TO, THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 2086*

*December 4, 1940*

\* \* \* \* \*

1.—(1) For paragraph (1) of Regulation ninety-three of the Defence (General) Regulations, 1939 (hereinafter referred to as “the principal Regulations”) there shall be substituted the following paragraphs:—

“ (1) Proceedings for an offence against any of these Regulations may unless the Regulation otherwise provides, be instituted either by a constable or by, or with the consent of, the Director of Public Prosecutions, and proceedings for an offence against any provision of these Regulations specified in the first column of the Third Schedule to these Regulations may also be instituted in the manner specified in the second column of that Schedule; but proceedings shall not be instituted for an offence against any of these Regulations otherwise than as aforesaid.

(1A) No restriction imposed by these Regulations upon the institution of proceedings (including any provision requiring the consent of the Attorney-General) shall apply—

- (a) to the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of an offence against any of these Regulations, or the remanding, in custody or on bail, of any person charged with such an offence; or
- (b) to any proceedings under the Naval Discipline Act, the Army Act, or the Air Force Act.”

(2) After the Second Schedule to the principal Regulations there shall be added the following Schedule :—

### “THIRD SCHEDULE

#### MANNER IN WHICH PROCEEDINGS MAY BE INSTITUTED IN RESPECT OF OFFENCES AGAINST CERTAIN PROVISIONS OF THE REGULATIONS

Provision of the Regulations.	Manner of institution of proceedings.
Regulation 23AB ... ..	By or on behalf of any local authority.
Regulation 45A or Regulation 45B	By or on behalf of a competent authority for the purposes of that Regulation, or by or on behalf of the Secretary of State.
Regulation 45C, Regulation 46 or Regulation 46A.	By or on behalf of a competent authority for the purposes of that Regulation.
Regulation 47A ... ..	By or on behalf of the Board of Trade or the Minister of Shipping.
Regulation 60AA ... ..	As respects any shop within their respective areas, by the Common Council of the City of London or the London County Council, or by any inspector appointed by those Councils respectively under section thirteen of the Shops Act, 1912.
Any Regulation contained in Part IV of these Regulations which specifically entrusts functions thereunder to a Secretary of State or other Minister or to the Admiralty or Board of Trade.	By or on behalf of that Secretary of State or other Minister or the Admiralty or Board of Trade, as the case may be, or by any such authority or person as may be specified by an order of that Secretary of State or other Minister or of the Admiralty or Board of Trade, as the case may be.
Any other Regulation contained in Part IV of these Regulations.	By or on behalf of a competent authority for the purposes of that Regulation, or by any such authority or person as may be specified by an order of a competent authority for the purposes of that Regulation.”

(3) For paragraph (7) of Regulation sixty AA of the principal Regulations there shall be substituted the following paragraph :—

“(7) Inspectors appointed by the Common Council of the City of London and the London County Council respectively under section thirteen of the Shops Act, 1912, shall, for the purpose of the enforcement of the provisions of this Regulation, have all such functions as are conferred on them by that section.”

(4) Regulations forty-eight A and seventy-eight of the principal Regulations shall cease to have effect. [20]

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [21]

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# ORDER IN COUNCIL AMENDING REGULATION 23AB OF, AND ADDING REGULATION 31C TO, THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 2150*

*December 19, 1940*

\* \* \* \* \*

1. For paragraph (5) of Regulation twenty-three AB of the Defence (General) Regulations, 1939, there shall be substituted the following paragraph :—

“(5) The Minister may make rules as to the management of public shelters and for regulating the conduct of persons in relation thereto and such rules may in particular make such provision as he considers expedient—

- (a) for excluding from such shelters persons whose exclusion appears necessary for the purpose of preserving order and decency in such shelters or the health of persons using them ;
- (b) for requiring persons as to whom it is suspected that their presence in such shelters may involve risk of injury to the health of others, or, in the case of children who have not attained the age of fourteen years, to the health either of themselves, or of others, to undergo medical examination ;
- (c) for securing the removal to hospitals or to their homes, or to other suitable places, of persons whose exclusion from such shelters or segregation therein is found on medical examination to be necessary by reason of their suffering from infectious or contagious disease, and for requiring such persons removed to hospitals in accordance with the rules to remain there until discharged after further medical examination ;
- (d) for requiring persons whose exclusion from such shelters or segregation therein is found on medical examination to be necessary by reason of their being verminous or offensively unclean to take such steps for the cleansing of themselves and their clothing as may be provided for by the rules ; and
- (e) for securing the cleansing of any bedding, blankets or other property found in such shelters which is verminous or otherwise dangerous to health or offensively unclean.

Any such rules may contain different provisions with respect to different classes of shelters or with respect to shelters in different areas.” [22]

2. The following Regulation shall be inserted after Regulation thirty-one B of the said Regulations :—

## 31c. “Removal of sick children from areas subject to hostile attack.

—(1) Where it appears to the proper authority that there is reason to suppose that any child in an area to which this Regulation applies—

- (a) is suffering in mind or body as a result of hostile attacks ; or
- (b) is in such a state of health as to be likely so to suffer if he remains in that area ;

that authority may cause the child to be examined by a medical practitioner appointed by the authority, and for that purpose may, by directions in writing, require the parent or guardian of the child to

submit the child for examination, at such time and place as may be specified in the directions, by that medical practitioner.

(2) Where a child is examined by a medical practitioner in pursuance of such directions and he is of opinion that the child is suffering as aforesaid or is in such a state of health as aforesaid, he shall forthwith send a certificate to that effect to the authority by whom the directions were given.

(3) After receiving such a certificate as respects a child, the proper authority may by directions in writing require that, after the expiration of such period (not being less than seven days from the date of the directions) as may be specified in the directions, the child shall not be within an area to which this Regulation applies without the consent of the proper authority.

Any directions given under this paragraph are hereafter in this Regulation referred to as 'directions for the removal of a child.'

(4) Where directions are given for the removal of a child, the parent or guardian of the child may, within the period specified as aforesaid in the directions, apply to a court of summary jurisdiction for the place where the child resides for a declaration that the child is not suffering as aforesaid and is not in such a state of health as aforesaid, and thereupon—

- (a) if the court makes the declaration, the directions shall be void ;
- (b) if the court refuses to make the declaration, the directions shall have effect as if for the period specified as aforesaid in the directions there were substituted a period expiring seven days after the date of the decision of the court.

(5) Where directions for the removal of a child are given by a proper authority, the parent or guardian of the child may, at any time before the expiration of the period specified as aforesaid in the directions, or that period as extended under the last foregoing paragraph, request that authority in writing to make arrangements for the removal of the child under an evacuation plan to an area to which this Regulation does not apply, and thereupon it shall be the duty of the authority to make arrangements accordingly.

(6) If a child is in any area to which this Regulation applies in contravention of directions for the removal of the child—

- (a) the parent or guardian of the child ; and
- (b) any person who brought the child into the area, or harbours or conceals the child in the area, knowing that the directions are being contravened ;

shall be guilty of an offence under this Regulation :

Provided that—

- (i) it shall be a defence for a parent or guardian charged with such an offence to prove that the child was in the area without his knowledge or consent ; and
- (ii) it shall be a defence for a parent or guardian charged with such an offence, or for any person charged with the offence of harbouring or concealing the child, to prove that the proper authority was requested in accordance with the last foregoing paragraph to make arrangements for the removal of the child and that any directions

given by that authority in connection with such arrangements have been complied with, but that the child has not been removed.

(7) This Regulation shall apply to any area from which the Minister of Health by order declares that, having regard to hostile attacks and the likelihood of further hostile attacks in the area, it is expedient to remove children who are suffering in mind or body as a result of such attacks or are in such a state of health as to be likely so to suffer.

(8) For the purposes of this Regulation—

- (a) the expression 'child' means a person under the age of fourteen years ;
- (b) the expression 'guardian,' in relation to a child, means any person having for the time being the custody, charge or care of the child ;
- (c) the expression 'proper authority' means the Minister of Health or a local authority acting for the purposes of this Regulation under the authority of the Minister of Health.

(9) The Minister of Health may by order specify the local authorities acting under his authority for the purposes of this Regulation, and different local authorities may be specified as acting for different parts of an area to which this Regulation applies and as respects children of different ages.

(10) The Lord Chancellor may make rules for regulating the procedure to be followed on and in connection with applications to a court of summary jurisdiction under this Regulation.

(11) This Regulation shall not extend to Scotland or Northern Ireland." [23]

3. Any rules made before the nineteenth day of December, nineteen hundred and forty, under paragraph (5) of Regulation twenty-three AB of the said Regulations shall thereafter be deemed to have been made under the paragraph substituted therefor by this Order. [24]

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## CIVIL DEFENCE (SPECIFIED AREAS) ORDER, 1940

*S. R. & O., 1940, No. 209*

*January 29, 1940*

\* \* \* \* \*

In pursuance of the power conferred upon me by section twelve of the Civil Defence Act, 1939, I hereby order as follows :—

1. The county districts, part of county district, and parishes in England, and district in Scotland described in the second column of the Schedule hereto shall, in addition to the areas specified by the Civil Defence (Specified Areas) Order, 1939, be the areas specified under section twelve above mentioned. [25]

2. This Order may be cited as the Civil Defence (Specified Areas) Order, 1940. [26]

\* \* \* \* \*

SCHEDULE  
ENGLAND

County.	County District, Part of County District, Parish.
DURHAM ... ..	Rural district : SUNDERLAND. Parish : BIRTLEY.
LINCOLNSHIRE ... ..	Parish : IMMINGHAM.
NORTHUMBERLAND ... ..	Part of urban district of Bedlington- shire : CAMBOIS (Ward of).
SOUTHAMPTON ... ..	Non-county borough : EASTLEIGH Parish : HAMBLE.
YORKSHIRE, NORTH RIDING	Part of urban district of Loftus : SKINNINGROVE (Parish of).
YORKSHIRE, WEST RIDING	Non-county borough : GOOLE.

SCOTLAND

County.	District.
STIRLINGSHIRE ... ..	District : EASTERN No. 1.

[27]

## AIR-RAID PRECAUTIONS (STORAGE AND LOAN OF EQUIPMENT) REGULATIONS, 1940

*P. & S. R. & O., 1940, No. 236*

*February 21, 1940*

In pursuance of the powers conferred upon me by subsection (1) of section eleven of the Air-Raid Precautions Act, 1937, and with the concurrence of the Treasury, I hereby make the following Regulations:—

1. These Regulations shall apply to equipment acquired on behalf of His Majesty under the Air-Raid Precautions Act, 1937, and furnished free of charge on behalf of His Majesty to a local authority but shall not apply to equipment to which the Air-Raid Precautions (Loan of Fire Appliances) Provisional Regulations, 1938, or the Air-Raid Precautions (Loan of Fire Appliances) (Scotland) Regulations, 1938, apply. [28]

2. The equipment is furnished to the local authority for the purpose of enabling the local authority to make provision—

(a) for the instruction of members of the public as to air-raid precautions and for their protection in the event of hostile attack from the air ;

- (b) for the protection of property in that event ; and
- (c) for the equipment of public services affording such protection as aforesaid and of persons serving in them and for the instruction and training of those persons ;

subject to the following conditions :—

- (1) equipment shall be distributed to members of the public in accordance with the directions of the Minister and not otherwise ;
- (2) equipment shall not be allocated for the use of particular services or of persons serving in them in excess of the scales approved by the Minister ;
- (3) where the Minister has by directions confined the use of any equipment to any purpose, it shall not be used for any other purpose ; and
- (4) the local authority shall secure reasonable economy in the use of equipment. [29]

3. As regards equipment which has not been distributed to members of the public, the local authority shall—

- (a) in the case of equipment not in use either store it with due care in suitable conditions, or, if it is kept available for immediate use, keep it with all practicable care ; and
- (b) in the case of equipment in use take all proper measures to secure that—
  - (i) the equipment is kept and used with due care ;
  - (ii) the equipment is not used except for the purposes for which it has been issued by the local authority ; and
  - (iii) equipment is not retained by a person serving in any public service as aforesaid except in conformity with directions given by the Minister in that behalf and where equipment is so retained, it is returned to the local authority on demand or in any case on that person ceasing so to serve. [30]

4. The local authority, if and to such extent as the Minister directs, shall repair, or make arrangements for the repair of, the equipment. [31]

5. Equipment, which is likely to deteriorate with the efflux of time and is suitable to be used for medical treatment, is furnished to the local authority on condition that—

- (a) the local authority will arrange, with a view to the avoidance of waste, for the equipment to be used for medical treatment so far as is practicable and for the replacement without cost to the Minister of the equipment so used by equipment (unless in any case the Minister should otherwise determine) of the same kind and of a not inferior quality ; and
- (b) the equipment substituted by way of replacement for the equipment so used shall be the property of His Majesty and shall be subject to the provisions of these Regulations and shall, with a view to the avoidance of waste, be replaced as provided by this Regulation. [32]

6.—(1) The Minister may at any time by notice require the local authority to return the equipment or any of it, and thereupon it shall

be the duty of the local authority to deliver the equipment, to which the notice relates, to the Minister or as he may direct.

(2) The local authority may, with the consent of the Minister, and shall, if he so directs, transfer any equipment to any other authority or person. [33]

7. The local authority shall cause equipment, other than equipment which has been distributed to members of the public, to be inspected by a competent person—

- (a) at suitable intervals with a view to ascertaining whether the equipment has become damaged or defective ; and
- (b) at intervals of not more than six months with a view to ascertaining what equipment is in its possession or control. [34]

8.—(1) The local authority shall keep a record—

- (a) of equipment furnished to the local authority and the date at which and the authority or person from whom it was received ;
- (b) of equipment distributed to members of the public ;
- (c) in the case of equipment other than equipment distributed to members of the public—
  - (i) of equipment which is not in use and of the places where it is stored or kept ;
  - (ii) of equipment which is in use and of the service by which it is being used or, in the case of equipment not used by a service, of the purpose for which it is used ; and
  - (iii) of equipment which has been consumed, destroyed or lost ;
- (d) of equipment which has been returned to the Minister or delivered or transferred to any authority or person in accordance with Regulation 6 hereof, or which has been returned to the Minister as being damaged or defective, and of the date of such return, delivery or transfer ; and
- (e) of the replacement of equipment used in accordance with Regulation 5 hereof and of the date of the replacement.

(2) The local authority shall permit at all times any person authorised in that behalf by the Minister of Home Security or the Minister of Health to inspect the equipment and the said record.

(3) The local authority shall, at such time or times as the Minister may direct, make a report to the Minister giving such particulars as he may direct of any matter, particulars of which are required to be recorded in the said record. [35]

9.—(1) Where any equipment is consumed, destroyed, lost or damaged or becomes defective owing to the local authority's contravention of, or failure to comply with, any provision of these Regulations, the local authority shall pay to the Minister a sum equal to the estimated cost of replacement or repair of the equipment, as the case may be.

(2) Any question arising under the foregoing paragraph of this Regulation between the Minister and the local authority shall be determined by a single arbitrator to be appointed by agreement or, in default of agreement, by the Minister of Health. [36]

10.—(1) In these Regulations, unless the context otherwise requires, the following expressions have the meaning hereby assigned to them :—

“ Equipment ” means any equipment, appliance or material ;

“ Local authority ” includes the standing joint committee of quarter sessions and of the county council appointed under section thirty of the Local Government Act, 1888 ; and

“ Minister ” means, in relation to any equipment furnished for the purpose of first-aid posts or of any other service with respect to which any of the functions of the Minister of Home Security are by arrangement under subsection (3) of section one of the Civil Defence Act, 1939, for the time being exercised on his behalf by the Minister of Health, the Minister of Home Security or the Minister of Health and, in relation to any other equipment, the Minister of Home Security.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [37]

11. These Regulations shall, in their application to Scotland, have effect as if for references to the Minister of Health there were substituted references to the Secretary of State. [38]

12. These Regulations may be cited as the Air-Raid Precautions (Storage and Loan of Equipment) Regulations, 1940.

In pursuance of section two of the Rules Publication Act, 1893, I hereby certify that on account of urgency these Regulations should come into immediate operation, and I make them to come into operation forthwith as Provisional Rules in England and as Statutory Rules in Scotland. [39]

\* \* \* \*

## CIVIL DEFENCE (REVISION OF CODE) ORDER, 1940

*S. R. & O.*, 1940, No. 1075

June 25, 1940

Whereas by the Civil Defence (Approval and Revision of Code) Order, 1939, a Code for the guidance of occupiers and owners of factory premises, factories, mines and commercial buildings and other persons concerned in providing air-raid shelter was approved and revised so as to bring the said Code into conformity with the revised Code set out in the Schedule to the said Order :

And whereas it is expedient that the said revised Code should be further revised :

Now, therefore, I, in pursuance of the power conferred on me by section 13 of the Civil Defence Act, 1939, hereby make the following Order :—

1. Paragraph 2 of the said revised Code shall be revised as follows :—

(a) in sub-paragraph (a) (ii) after the words “ thickness of ” there shall be inserted the words “ structural concrete or ”.

(b) in sub-paragraph (a) (iv) the words “ or structural ” and “ unreinforced ” shall be omitted.

- (c) after sub-paragraph (a) (vii) the following sub-paragraph shall be inserted—

“(viii) concrete in hollow type construction conforming with the requirements set out in paragraph (1) of the Appendix to Part I of this code.”

- (d) in sub-paragraph (b) (iv) after the words “set out in” there shall be inserted the words “paragraph (2) of”. [40]

2. The Appendix to Part I of the said revised Code shall be revised by substituting therefor the following Appendix—

“Appendix to Part I.

(1) (a) Walls shall be at least 18 inches thick and built with precast rectangular hollow blocks of cement concrete having nominal overall dimensions of 18 inches  $\times$  9 inches  $\times$  6 to 9 inches high. The walls and central web of the blocks shall be at least 2 inches thick and the cavities shall be filled with ballast, shingle, earth or sand. The blocks shall be bedded in a suitable mortar, which may be of a non-hydraulic lime and sand to facilitate the recovery of the blocks if and when the wall is no longer required.

(b) The quality of the concrete shall be such that the compressive strength of the blocks, tested on bed at 28 days with the cavities unfilled, is not less than 1,500 lb. per sq. inch calculated on the net area of the walls and central web of the blocks, and a test certificate shall be produced, if required.

(2) Hollow type construction, in which are incorporated hollow tiles, hollow concrete blocks or precast reinforced concrete structural units, if—

- (a) such construction has been designed for its normal structural purpose in accordance with the Code of Practice for the use of Reinforced Concrete in Buildings prepared by the Reinforced Concrete Structures Committee of the Building Research Board, or in accordance with the appropriate building regulations at present in force, to carry safely a superimposed load, in addition to its own weight, of not less than 50 lb. per sq. ft. of covered area; and

- (b) there is, above the system of tiles, blocks or pre-cast units, not less than 3 inches of reinforced concrete, or alternatively not less than  $2\frac{1}{2}$  inches of reinforced concrete together with a superimposed screeding not less than 1 inch thick.” [41]

3. This Order may be cited as the Civil Defence (Revision of Code) Order, 1940. [42]

\* \* \* \* \*

## CIVIL DEFENCE (EMPLOYMENT) ORDER, 1940

*S. R. & O.*, 1940, No. 1206

July 9, 1940

\* \* \* \* \*

In pursuance of the powers conferred on me by Regulations 29B and 38 of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. Subject as hereinafter provided, every person, who is on or after the date of this Order in the service of a local authority and employed as a member of a service to which this Order applies, is required to continue in such employment until his services are dispensed with in accordance with the provisions of Article 2 of this Order. [43]

2. The services of any person employed as aforesaid or of any class or description of persons so employed may be dispensed with by the Minister of Home Security or by the person appointed by the local authority to be in charge of the service to which the person or class or description of persons belongs. [44]

3. This Order shall not apply to a person who is employed without remuneration or to a person who is not continuously employed whole-time. [45]

4. The services to which this Order applies are rescue parties, first-aid parties and stretcher parties. [46]

5. This Order may be cited as the Civil Defence (Employment) Order, 1940. [47]

\* \* \* \* \*

## CIVIL DEFENCE (EMPLOYMENT) (NO. 2) ORDER, 1940

*S. R. & O.*, 1940, No. 1649

September 12, 1940

103003.

The Minister of Health, in pursuance of the powers conferred upon him by Regulation 29B of the Defence (General) Regulations, 1939, hereby orders as follows :—

1. Subject as hereinafter provided, every male person who is on or after the date of this Order in the service of a local authority and employed as a member of a service to which this Order applies, is required to continue in such employment until his services are dispensed with in accordance with the provisions of Article 2 of this Order. [48]

2. The services of any such person or of any class or description of such persons may be dispensed with by the Minister of Health or by the person appointed by the local authority to be in charge of the service to which the person or class or description of persons belongs. [49]

3. This Order shall not apply to a person who is employed without remuneration in a service to which this Order applies or to a person who is not continuously employed whole-time in such a service. [50]

4. The services to which this Order applies are first-aid post services and ambulance services. [51]

5. This Order may be cited as the Civil Defence (Employment) (No. 2) Order, 1940. [52]

\* \* \* \*

## CIVIL DEFENCE (EMPLOYMENT) (NO. 3) ORDER, 1940

*S. R. & O., 1940, No. 1839*

*October 16, 1940*

In pursuance of the powers conferred on me by Regulations 29B and 38 of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. Subject as hereinafter provided, every person, who is on or after the date of this Order in the service of a local authority in the London Civil Defence Region, being the area described in the Schedule to this Order, and is employed in the capacity of air-raid warden, is required to continue in such employment until his services are dispensed with in accordance with the provisions of Article 2 of this Order. [53]

2. The services of any person to whom Article 1 of this Order applies or of any class or description of such persons may be dispensed with by the Minister of Home Security, or, in the case of a person in the service of—

- (a) the council of a county borough or metropolitan borough, by the person appointed by the council to be air-raid precautions controller ;
- (b) the council of a county district, by the person appointed by the council to be air-raid precautions sub-controller ;
- (c) the Common Council of the City of London, by the Commissioner of City of London Police. [54]

3. This Order shall not apply to a person who is employed without remuneration or to a person who is not continuously employed whole-time. [55]

4. This Order may be cited as the Civil Defence (Employment) (No. 3) Order, 1940. [56]

\* \* \* \*

### SCHEDULE

The administrative counties of London and Middlesex :

so much of Essex as consists of the boroughs of Barking, Chingford, Dagenham, East Ham, Ilford, Leyton, Walthamstow, Wanstead and Woodford, and West Ham ; and the urban districts of Chigwell and Waltham Holy Cross ;

so much of Hertfordshire as consists of the urban districts of Barnet, Bushey, Cheshunt, and East Barnet ; and the rural district of Barnet ;

so much of Kent as consists of the boroughs of Beckenham, Bexley, Bromley, and Erith ; and the urban districts of Chislehurst and Sidcup, Crayford, Orpington, and Penge ; and

so much of Surrey as consists of the boroughs of Barnes, Beddington and Wallington, Croydon, Epsom and Ewell, Kingston-on-Thames, Malden and Coombe, Mitcham, Richmond, Surbiton, Sutton and Cheam, and Wimbledon ; and the urban districts of Banstead, Carshalton, Coulsdon and Purley, Esher, and Merton and Morden. [57]

# AIR-RAID PRECAUTIONS (LONDON) (ALLOCATION OF DUTIES) ORDER, 1940

*S. R. & O.*, 1940, No. 1400

*July 30, 1940*

Whereas it is expedient that the Air-Raid Precautions (London) (Allocation of Duties) Order, 1938, should be varied as hereinafter provided :

Now, therefore, by virtue of the powers conferred on me by subsection (1) of section two and by subsection (2) of section eleven of the Air-Raid Precautions Act, 1937, I hereby make the following Order :—

1. The First Schedule to the principal Order shall be varied—

- (a) by omitting from paragraph 6 thereof the words “ and for dealing with damaged or unsafe buildings and rescue of persons trapped therein ”.
- (b) by adding to paragraph 12 thereof the words “ other than those members of the public described in paragraph 10 of the Second Schedule hereto ”.
- (c) by omitting therefrom paragraph 16 thereof. [58]

2. The Second Schedule to the principal Order shall be varied—

- (a) by omitting therefrom paragraph 7 thereof.
- (b) by adding to the said Second Schedule the following paragraph :—

“ 9. Arrangements for dealing with damaged or unsafe buildings and rescue of persons trapped therein.”

- (c) by adding to the said Second Schedule the following paragraph :—

“ 10. Arrangements for the provision of shelter for residents in and other members of the public who may be in blocks of tenement buildings owned by the London County Council in so far as the provision of such shelter may be reasonably practicable within the limits of the estate in which the blocks of tenement buildings are situated.” [59]

3. (1) All references in paragraph 1 of the Principal Order to the Schedules to the Principal Order shall be construed as referring to those Schedules as varied by this Order.

(2) Sub-paragraph (1) of paragraph 2 of the Principal Order shall be varied by substituting for the words “ Air-Raid Precautions (London) (Allocation of Duties) Order, 1938 ” the words “ Air-Raid Precautions (London) (Allocation of Duties) Orders, 1938 and 1940 ”.

(3) Sub-paragraph (3) of paragraph 2 of the Principal Order shall be varied by substituting for the word “ Order ” the word “ Orders ”. [60]

4. (1) In this Order “ the Principal Order ” means the Air-Raid Precautions (London) (Allocation of Duties) Order, 1938.

(2) This Order shall be construed as one with the Principal Order. [61]

5. This Order may be cited as the Air-Raid Precautions (London) (Allocation of Duties) Order, 1940, and this Order and the Principal Order may be cited together as the Air-Raid Precautions (London) (Allocation of Duties) Orders, 1938 and 1940. [62]

\* \* \* \* \*

## SALE OF FOOD (PUBLIC AIR-RAID SHELTERS) ORDER, 1940

*S. R. & O., 1940, No. 1964*

*November 6, 1940*

In exercise of the powers conferred on him by Regulation 55 of the Defence (General) Regulations, 1939, as amended, the Minister of Food hereby makes the following Order :—

1. In this Order :—

(a) " The Minister " means the Minister of Food.

(b) " Food " has the same meaning as in the Food and Drugs Act, 1938. [63]

2. Except under and in accordance with the terms of an Authority or of a licence given or granted by or on behalf of the Minister no person shall sell or offer or expose for sale any food

(a) In any public air-raid shelter ; or

(b) If the Minister shall so direct within such area in the vicinity of any public air-raid shelter as may be specified in such direction. [64]

3. Where a person is authorised or licensed by or on behalf of the Minister to sell food in or within any area in the vicinity of any public air-raid shelter, then subject to the terms of such Authority or Licence and to any directions which may be given by or on behalf of the Minister such person may sell food in accordance with such Authority or Licence and directions at any time. [65]

4. Nothing in this Order shall relieve any person from compliance with the provisions of the following Orders :—

(1) The Food Control Committees (Local Distribution) Order, 1939.

(2) The Food Control Committees (Registration of Establishments) Order, 1939, as amended.

(3) The Rationing Order, 1939, as amended, and any directions made thereunder.

(4) The Tea (Rationing) Order, 1940. [66]

5. This Order shall extend only to the areas set out in the schedule hereto and such other areas as the Minister may from time to time direct. [67]

6. Infringements of this Order are offences against the Defence (General) Regulations, 1939. [68]

7. This Order shall come into force on the eleventh day of November, 1940, and may be cited as the Sale of Food (Public Air-Raid Shelters) Order, 1940. [69]

\* \* \* \*

#### THE SCHEDULE

Areas to which this Order refers—

The Metropolitan and City Police Districts. [70]

### DIRECTIONS UNDER THE SALE OF FOOD (PUBLIC AIR-RAID SHELTERS) ORDER, 1940

*S. R. & O., 1940, No. 2070*

*December 2, 1940*

Pursuant to Article 5 of the Sale of Food (Public Air-Raid Shelters) Order, 1940, the Minister of Food hereby orders and directs that the said Order shall on and from the 2nd day of December, 1940, extend to the area set out in the Schedule hereto. [71]

\* \* \* \*

#### SCHEDULE

The Area of the County Borough of Coventry. [72]

### DIRECTIONS UNDER THE SALE OF FOOD (PUBLIC AIR-RAID SHELTERS) ORDER, 1940

*S. R. & O., 1940, No. 2098*

*December 9, 1940*

Pursuant to Article 5 of the Sale of Food (Public Air-Raid Shelters) Order, 1940, the Minister of Food hereby orders and directs that the said Order shall on and from the 9th day of December, 1940, extend to the area set out in the Schedule hereto. [73]

\* \* \* \*

#### SCHEDULE

The Area of the City of Liverpool. [74]

## STORAGE OF DANGEROUS DRUGS AT FIRST-AID POSTS

*Circular 1944*

*January 5, 1940*

SIR,—I am directed by the Minister of Health to state that representations have been made to him by the Home Office regarding the importance of ensuring the safe custody of dangerous drugs issued as part of the medical equipment of First-aid Posts, and for securing that proper supervision is exercised in their administration.

In issuing dangerous drugs to the Scheme-making Authorities the Minister has arranged that they shall be consigned personally to the County Medical Officer or the Medical Officer of Health, as the case may be, who is the Officer primarily responsible for their safe custody, and it is of the greatest importance that every precaution should subsequently be taken to ensure that at no time shall access to these drugs be available to any unauthorised person.

In conjunction with the Home Office, the Minister has given careful consideration to the safeguards which may be necessary to secure the object in view, and has decided to issue the following instructions for the guidance of Scheme-making Authorities :—

- (a) On receipt of the drugs the County Medical Officer or the Medical Officer of Health of the Scheme-making Authority, as the case may be, should record in a register kept in compliance with section 11 of the Dangerous Drugs Regulations, 1937, the quantities and form of the drugs received and the date of receipt.
- (b) On distribution to the First-aid Posts by the County Medical Officer or Medical Officer of Health the drugs should be addressed, or delivered personally, to the responsible doctor at the Post, and an entry made in the same register showing the disposition, recording the date, the name of the doctor, the address of the Post, and the quantities and form of the drugs despatched.
- (c) The doctor to whom the drugs are thus consigned will enter in a similar register kept at the Post, a record of the date of receipt, the name and address of the authority from whom obtained, and the quantities and form of drugs received.
- (d) The drugs at the First-aid Posts shall be kept under lock and key, and the key retained in the personal charge of the doctor, and no unauthorised person shall have access to those drugs.
- (e) The drugs disposed of other than by personal administration by a doctor to casualties (*e.g.* breakages) must be recorded in the Register kept at the First-aid Post.

The Minister understands that if these instructions are carried out in detail, all the requirements of the Home Office and the Pharmaceutical Society regarding the care of dangerous drugs, will be satisfied.

It may, however, be necessary in the event of an emergency occurring and the doctor being unable to attend at the Post, for the County Medical Officer or Medical Officer of Health, to take such steps as he may consider appropriate for the occasion, and in this connection

it is suggested that he should provide himself with a duplicate or master key of the Dangerous Drugs cupboards.

A copy of this Circular is being sent to the County Medical Officer or Medical Officer of Health as the case may be, and it is requested that its receipt be acknowledged.

I am, Sir, etc. [75]

## PROVISION OF AIR-RAID SHELTER IN SPECIFIED AREAS

*Home Security Circular No. 38/1940*

*March 4, 1940*

SIR,

1. I am directed by the Minister of Home Security to say that he has had under further review the progress in the provision of air-raid shelter in the specified areas. In some areas plans carrying out the policy of the Government have been well developed and substantial progress has been made, but there are other areas in which much still remains to be done. More rapid progress is necessary in many areas if the position is to be made reasonably satisfactory. It cannot be assumed that the enemy will continue to confine air attack to the types of target hitherto selected; and it is essential that steps should be taken to complete the shelter provision required to protect the civil population from the risks to which they would be exposed if the enemy undertook air operations against objectives on land.

2. The progress in the provision by employers of shelter under the Civil Defence Act for persons at work in industrial establishments has been gratifying, and substantial provision has similarly been made in commercial establishments.

As regards the civilian population generally, it is the policy of the Government that local authorities should provide :—

- (i) shelter at the home, or near to it, for all financially eligible householders; together with
- (ii) public shelter of capacity sufficient to secure to the public in the streets and to those of the eligible classes who cannot be given protection at the home, a reasonable prospect of finding shelter.

3. These two parts of the shelter policy are complementary, and when allowance is made for the proportion of the population who are not eligible for the provision of free shelter and who must accept responsibility for shelter at their own homes, and for those who have left the specified areas, the gross amount of shelter for whose provision the authorities are responsible is not likely in many areas to be less than the amount necessary for 80 per cent. of the population.

The Minister asks local authorities to review urgently the present provision of shelter and their plans for its extension and to do everything in their power to ensure that the necessary amount of shelter is provided by the middle of the present year.

4. Generally speaking, the provision of shelter for persons in the streets is more advanced than that of shelter at or near the home, and the Minister has therefore examined closely the present position in this latter respect.

*Standard Steel Shelters*

5. Shelters of this type sufficient for more than 10 million people have been distributed. In view of the proved acceptability of shelters of this pattern and the ease and rapidity of their erection they offer the readiest means of providing shelter at the home. In some areas distribution of these shelters has not yet begun, and in others it is not yet complete, but arrangements for distribution to all outstanding areas have now been announced. It is important that all those issued should be erected as soon as possible.

*Strengthening of domestic basements*

6. It is clear that this method, though it has proved valuable and practicable in many thousands of cases, has been found in others to be difficult, slow or expensive. While, therefore, it has a contribution to make to the total of shelters, and while the Department is in a position to continue the supply of the necessary material for some time, it is evident that in many cases where the steel shelter is not suitable, reliance will have to be placed on shelters constructed in brick and concrete.

*Individual Domestic Surface Shelters in Brick or Concrete*

7. In Circular No. 102/1939 of 5th May, local authorities were informed of a standard design for individual household shelters, and of the terms, including the reimbursement of the cost of the materials used, under which, with the approval of the Senior Regional Officer, they could be erected.

These shelters, like the standard steel shelters, give effect to an important part of the Minister's policy that shelter should, so far as possible, be at the home of the household for which it is provided. They have been fairly extensively used, but the financial terms laid down in the Circular seem, in some cases at any rate, to have been difficult to relate to conditions actually existing; and the Minister has accordingly, after careful examination decided to revise these terms as shown in Appendix I to this Circular. The revised arrangements will operate in the case of shelters contracted for after the date of issue of this Circular.

Where for any local reason, *e.g.* multiple handling owing to difficulties of access, it is found impossible to keep within the revised total costs—which the Minister is satisfied should be found generally adequate—express sanction must be sought for the excess expenditure through the Regional Technical Adviser who, if he is satisfied that the excess is dictated by exceptional local circumstances, has authority to recommend sanction of an excess within certain limits. All proposals for the construction of this type of shelter must continue to be submitted to the Regional Technical Adviser in accordance with the terms of A.R.P. Department Circular 102/1939.

*Communal Domestic Surface Shelters*

8. It is, however, clear to the Minister that individual domestic shelters of the type just referred to are, especially in the case of single units, relatively expensive in terms of materials, labour, time and cost, and further, that there are frequently difficulties in the way of siting individual shelters. The Minister has, therefore, decided to authorise as an alternative to the individual shelter, the construction of brick or

concrete shelters of larger size, to be sited in the immediate vicinity of groups of houses in vacant spaces or in the streets. This alternative type of shelter offers a substantial reduction in cost, labour, materials and time of erection, and will therefore afford opportunity for a substantial acceleration of shelter provision. It should, it must be stressed, be understood that shelters of this type, although technically public shelters, from which members of the public cannot be excluded, are intended for the accommodation of dwellers in particular groups of houses in the immediate vicinity; and this consideration must predominate in the siting of the shelters.

9. Particulars, with drawings, of shelters designed for this purpose, the construction of which may, subject to approval through the Regional Technical Adviser, be undertaken, are set out in Appendix II, which also gives particulars of the financial arrangements approved. These arrangements, as in the case of the individual surface shelter, provide limiting figures of total cost, and authorise the reimbursement of the cost of materials on the same basis. If it is found necessary by reason of local circumstances to exceed the figures of total cost, full particulars should be submitted to the Regional Technical Adviser who has, in this case also, discretion to recommend sanction for an excess within certain limits.

10. The preceding paragraphs have been devoted to a description of certain type designs of shelter at or near the home, in individual or communal form, and of the financial arrangements governing their provision.

While these designs together with the arrangements authorised in the case of flats and tenements (see Circular 282/1939) should cover a large part of the ground, there is still, the Minister appreciates, need for supplementation in exceptional cases where a solution on standard lines is not possible. He is anxious that the solution of the problem in such cases should not be handicapped by any adverse financial discrimination. Where therefore an unstandardised form of individual domestic shelter or of communal shelter in lieu thereof, as the case may be, is proposed, and the total cost is less than that of the individual or communal standard brick and concrete shelter of comparable capacity, financial arrangements of a similar kind will hold, that is to say, that there will within limits be reimbursement of material costs. The amount which will be reimbursed will be the actual ascertained costs of materials subject, as in the other cases, to an overriding maximum of 10s. 6d. for each £1 of the total cost. Specific approval for all such proposals must be sought through the Regional Technical Adviser.

11. These new measures and the financial terms accompanying them have been authorised in the expectation that authorities in specified areas will concentrate urgently upon the provision of domestic shelters, and the Minister hopes to see as a result a rapid improvement in the general position in that respect.

12. Under the Regulations made under the A.R.P. Act, 1937, there is an overriding responsibility upon the scheme making authority to provide shelter. Part IV of the Civil Defence Act and the provision of the materials for the steel shelter, or the cost of the materials in the case of domestic surface shelters, gave powers and facilities to district councils for the construction of domestic shelters. The Minister

expects that these authorities will make full use of these powers and facilities, including those for communal domestic shelters, and that scheme-making authorities, in close association with district councils, will ensure that the complementary provision of grant-aided public shelters will be made concurrently as far as possible.

13. For the purpose of assisting local authorities in regard to this development of policy for shelter at or near the home, the Minister has thought it convenient to recapitulate in Appendix III, in a condensed form, what are the responsibilities of local authorities, the extent to which discretion in carrying them out is delegated and the governing financial arrangements.

14. **Organisation.**—The Minister is fully aware of the heavy burden of work that the development of the shelter policy has placed upon the staffs of local authorities. The responsibilities of these officers will, if more rapid development in the provision of shelters is to be obtained, be correspondingly more onerous. The Minister desires therefore to call the particular attention of all authorities to the need for seeking outside assistance in this task. To obtain additional staff to be added temporarily to the staff of the officers in charge is admittedly very difficult, but authority has been given in Circular 110/1939 for the employment, on a fee basis, of qualified engineers and architects, to assist the staff of local authorities. On the information before the Minister, it is obvious that many authorities have not taken full advantage of this authorisation and that reliance on existing staffs has led to a retardation of the provision of shelter. Further, it is within the knowledge of the Minister, that consequent upon the curtailment of the normal activities of the building industry, there are, at present, firms which have resources at their disposal which could be devoted to the construction of air-raid shelters. This is a state of affairs which may not be of long duration and the fullest advantage should be taken of it while it lasts.

15. In addition, arrangements have been made through the Regional Technical Staff of the Department for further decentralisation of authority both in respect of approval of expenditure and approval of technical variations from the standard designs which are permissible without affecting the standard of protection which those designs secure.

16. At the stage now reached the Minister thinks that further progress can best be made by concentrating on the provision of shelter of the types already recommended to them; and for this reason he does not propose, as at present advised, to issue any further technical advice regarding fresh types of shelter. He hopes therefore that the authorities, recognising the urgency of the problem and its importance in relation to the war effort of the country, will press forward as rapidly as possible with the provision of shelter in accordance with the policy already laid down.

I am, Sir, etc.

*Issued to all scheme-making authorities in England, Wales and Scotland and to the Councils of all other areas specified in the Civil Defence (Specified Areas) Order, 1939, and the Civil Defence (Specified Areas) Order, 1940. [76]*

704319/157.

## APPENDIX I

## MODIFICATIONS OF CIRCULAR NO. 102/1939

## 1. Revisions of price limits :—

In place of the limits set out in paragraph 3 of Circular No. 102/1939 the following limits are substituted :—

	No floor no traverse.	With floor no traverse.	No floor with traverse	With floor and traverse.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Single Shelter (Unit)	20 10 0	21 10 0	27 0 0	28 10 0
Double Shelter (Two units) ...	30 0 0	32 0 0	40 0 0	42 10 0
Quadruple Shelter (Four units) ...	52 10 0	56 0 0	72 0 0	76 10 0

N.B.—These revised limits of costs are based on the latest basic rates for materials and labour, and also allow for the omission of the steel plates as shown in the original design for the emergency exits which should be constructed of brickwork in sand in the manner shown in the drawings for communal domestic shelters which are appended to this circular. The saving resulting from this change in design amounts to £1 7s. per emergency exit.

## 2. Revision of the arrangements for the reimbursement of the cost of materials :—

In place of the actual cost of materials, subject to the maxima laid down in paragraph 5 of Circular No. 102, there will be reimbursed in the actual cost of materials, subject to a maximum of 10s. 6d. in the £ of the total cost. [77]

## APPENDIX II

## COMMUNAL DOMESTIC SHELTERS

(I) *General.*

This Appendix deals with the construction of communal domestic shelters as described in paragraph 8 of this Circular.

(II) *Dimensions and layout.*

The type shelters are designed in blocks of four to accommodate 12 persons per shelter, and 48 persons per block ; and four different types of layout are given so as to permit of adaptations to sites of varying dimensions. The cheapest form which can be fitted into the site should be chosen.

(III) *Variations in Design.*

The standard designs are drawn up for shelters placed on good solid ground or on roads or paved yards, and where no special roof loading is required.

If, however,

- (a) the soil is poor, or on a slope, additional foundations may be required.
- (b) the shelter is situated in close proximity to a lofty building, the standard roof, which is designed to carry a superimposed load of 400 lbs. per sq. ft., may require to be strengthened.

(IV) *Specification.*

The detailed specifications will be precisely similar to those laid down for domestic surface shelters (see "Directions for the Erection of Domestic Surface Shelters") save that doors are in this case included in the design. These should be of the simplest and cheapest form, fixed direct to brickwork without frames, as indicated on the drawing. It must be emphasised that the purpose of these shelters is to provide adequate protection at the most economical cost and, while strength is of the utmost importance, they do not call for a high standard of finish. This should be borne in mind when tenders are being invited.

(V) *Financial Arrangements.*

(a) If the Regional Technical Adviser approves in any cases the construction of shelters of this type, specific authority for the necessary expenditure need not be obtained provided that the cost does not exceed the costs set out in the following table :—

	Scheme I. Type 9' 0" × 5' 0".	Scheme II. Type 6' 8½" sq.	Scheme III. Type 6' 8½" rect.	Scheme IV. Type 10' 0" × 4' 6".
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Without traverse...	76 10 0	76 10 0	84 0 0	95 0 0
With traverse ...	94 10 0	92 10 0	100 0 0	111 0 0

(b) If there are specific local circumstances, *e.g.* those outlined in paragraph (III) above, which justify an increase in these figures, application should be made to the Regional Technical Adviser, who, on due cause shown, has discretion to recommend sanction of variations.

(c) The actual cost of materials used in the construction of these shelters will be reimbursed subject to a maximum of 10s. 6d. in every £1 of the total cost, the remaining expenditure ranking for grant. [78]

## APPENDIX III

## DOMESTIC SHELTER

1. *The Standard steel shelter.*

(a) The distribution of steel shelters has now been extended to all specified areas. On the score of cost and ease of erection, the steel shelter offers the readiest means of providing domestic shelter and should normally be used in preference to alternative forms.

(b) Local authorities should do everything in their power to secure that shelters are erected immediately after they are distributed; and for this purpose they have full discretion as to affording assistance to householders.

(c) When water-logging is anticipated, local authorities may in their discretion take steps, as set out in Circular No. 136, to make shelters water-proof, but if they propose operations of this kind on a large scale, the Regional Technical Adviser should be consulted.

(d) Expenditure incurred under (b) or (c) above will be on a grant-aided basis.

2. *The strengthened basement.*

(a) Standard materials, steel joists, tubes and sheets, as described in A.R.P. Memorandum No. 10, page 17, are available for distribution to specified areas. Forms of requisition may be obtained from the Supply Branch of the Department, Cleland House, S.W.1.

(b) As in the case of the standard steel shelter, the cost of erecting the strengthening material will be upon a grant-aided basis.

*Note.*—Basements are usually of capacity considerably larger than the number of inhabitants in the houses of which they form part; and to secure economy and conserve materials, it is important that in a row of houses not more basements should be dealt with than will serve to provide protection for all the inhabitants. Regional Technical Advisers are able to advise upon the questions arising.

### 3. *Individual Domestic surface shelters.*

(a) In the circumstances defined in paragraphs 2 and 3 of Circular No. 102, local authorities may, with the approval of the Regional Technical Adviser, construct shelters of this type.

(b) Provided that the total cost does not exceed the revised limits contained in Appendix I of this Circular, specific authority need not be obtained for the expenditure; and if specific local circumstances justify an excess, application should be made to the Regional Technical Adviser who has discretion, within limits, to approve variations.

(c) In respect of the cost of materials used, there will be reimbursed the actual cost of the materials subject to a limit of 10s. 6d. on each £1 of the total cost, the balance of expenditure being grant-aided.

(d) Alternative forms of individual domestic shelters are not excluded provided that the total cost does not exceed the cost of a standard shelter of the same capacity. All such cases should be submitted to the Regional Technical Adviser; and, if approval is given, the actual cost of materials will be reimbursed up to a limit of 10s. 6d. on each £1 of total cost.

### 4. *Communal domestic surface shelters.*

(a) Where the standard steel shelter cannot be used, local authorities may instead of constructing individual surface shelters, erect communal shelters of the type described in Appendix II of this Circular. Such shelters must be in the immediate vicinity of the houses for whose inhabitants' use they are designed. The approval of the Regional Technical Adviser must be obtained.

(b) Provided that the total cost does not exceed the limits set out in Appendix II of this Circular the expenditure involved will be treated as approved expenditure; if specific local circumstances justify an excess over these limits, application should be made to the Regional Technical Adviser who has discretion, within limits, to recommend sanction of variations.

(c) In respect of the cost of materials used there will be reimbursed the actual cost of the materials subject to a limit of 10s. 6d. on each £1 of the total cost, the balance of expenditure being grant-aided.

(d) Alternative forms of communal domestic surface shelters are not excluded, provided that the total cost does not exceed the cost of the standard type shelter. All such cases should be submitted to the Regional Technical Adviser; and, if approval is given, the actual cost of materials will be reimbursed up to a limit of 10s. 6d. on each £1 of total cost.

### 5. *Shelters for flats and tenements.*

(a) In recognition of the somewhat special problems presented by blocks of flats and tenements, special arrangements were announced in Circular No. 282. These arrangements remain in force.

### 6. *Lighting, sanitation, seating, etc.*

The domestic shelter presents a different problem in these respects from the public shelter, because of its proximity to the house; and it is not considered necessary, in the case of domestic shelters of any type, to make public provision of lighting or sanitary facilities or of seats. [79]

## MALE PERSONNEL OF FIRST-AID POST AND AMBULANCE SERVICES

*The Civil Defence (Employment) (No. 2 Order), 1940.*

*Circular 2148*

*September 17, 1940*

SIR,

1. I am directed by the Minister of Health to forward for your information a copy of the Civil Defence (Employment) (No. 2) Order, 1940, which has been made by the Minister under Regulation 29B of the Defence (General) Regulations, 1939. The general effect of the Order is to require all male personnel of the First-Aid Post and Ambulance Services who are employed on a whole-time paid basis to continue in that employment until their services are dispensed with in accordance with the Order. The persons to whom the Order applies are thus placed in a position analogous to that of men serving in the Armed Forces, in the sense that they are required to continue serving unless and until they can no longer render effective service or their services are more urgently needed elsewhere.

2. The Order leaves it to the officer in charge of the particular Service to determine whether the services of any person to whom the Order applies should be dispensed with, subject to the provision in paragraph 2 of the Order whereby the services of any person or class of persons may be dispensed with by the Minister. The officer in charge of the Services to which the Order applies will normally be the County Medical Officer or Medical Officer of Health, but it is open to the local authority to delegate to such other officers as may be deemed appropriate the power of allowing a member of either Service to leave it. The power to *refuse* permission to leave should not be delegated except under arrangements approved by the Regional Commissioner.

3. While it is not the Minister's intention to intervene, in ordinary circumstances, in the determination of individual cases, he desires to express the following views for the guidance of officers in charge of the Services :—

- (a) Certain individuals affected by the Order may leave one of the Services concerned before the provisions of the Order become generally known, or before the officer in charge of the Service is in a position to exercise his discretion under the Order. It is not considered necessary that such persons should be recalled, but persons who have given notice of resignation but are still serving are subject to the provisions of the Order and may be required to continue in their employment at the discretion of the officer in charge.
- (b) The following are cases in which a person may properly be allowed to leave the Service :—
  - (i) reasons of health or very urgent private affairs, where these cases cannot be met by the grant of temporary leave.
  - (ii) Where the person possesses special skill or experience which is urgently required for other work of national importance, and he is designated for such work by the Ministry of Labour and National Service.

(iii) Where the person is found on any ground unsuitable for further service, in which case he may be discharged subject to the usual notice.

The possibility of more remunerative employment is not a ground on which release should ordinarily be granted.

4. It will be noted that the Order applies only to persons employed on a whole-time paid basis, and does not therefore affect doctors in charge of fixed and mobile First Aid Posts.

#### *Deferment of calling up*

5. Arrangements have been made whereby the whole-time personnel of the First-Aid Post and Ambulance Services, aged 30 and over, whose particulars are supplied in approved form by the local authorities concerned, will not be called up under the National Service (Armed Forces) Acts during the current year.

6. In order to secure deferment under these arrangements application should be made in each case to the appropriate office of the Ministry of Labour and National Service at the address shown on the address side of the person's registration certificate (N.S.2) in the form set out overleaf. It is important to observe that deferment under these arrangements can only be granted, and particulars should therefore only be furnished, in respect of persons who (a) are employed whole-time in the First-Aid Post or Ambulance Services, (b) are aged 30 or over, and (c) have registered under the National Service (Armed Forces) Acts *but have not received enlistment notices*. With the introduction of the measures outlined in this Circular it is not expected that local authorities will find it necessary to apply for deferment of military service in individual cases under age 30.

7. Arrangements should be made for the particulars referred to above to be furnished to the offices of the Ministry of Labour and National Service on the authority of the County Medical Officer or Medical Officer of Health, as the officer responsible for the two Services in question.

8. The appropriate office of the Ministry of Labour and National Service should be notified immediately a person in respect of whom particulars have been furnished ceases to be employed in the Service on a whole-time basis.

9. The Minister desires to emphasise the importance of these measures and to ask that steps may be taken to bring them as soon as possible to the notice of all concerned.

A copy of this Circular is being sent for the information of your Council's Medical Officer(s) of Health. [80]

\* \* \* \* \*

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## CASES

*Emergency Legislation—Air-Raid Precautions—Provision of Air-Raid Shelter—Commercial Building—Arcade Consisting of Number of Buildings in Each of which Less than Fifty Persons Employed—Air-Raid Precautions Act, 1937 (c. 6)—Civil Defence Act, 1939 (c. 31), ss. 14, 15, 16, 17, 19, 30, 89 (5), 90.*

Plaintiff was a freeholder of land which he had developed as an arcade. It consisted of a number of shops, and included a covered footway, which, however, had never been dedicated to the public as a highway. Some 160 persons were employed in the various premises owned and let by plaintiff, but in no one of the separate lettings were fifty persons employed. Plaintiff had conveyed a part of the site of the arcade to a company which had erected a number of shops structurally connected with those of plaintiff, and forming part of the arcade. A substantial part of the property was leased to a company which built on that and on other adjoining land a large building structurally connected with plaintiff's buildings but in itself quite a separate building. The action was for a declaration that the property in question was not "a commercial building" within the meaning of the Civil Defence Act, 1939, and that in consequence the notice was *ultra vires* :—

*Held* : plaintiff's premises were not a commercial building within the meaning of the Civil Defence Act, 1939, s. 89 (5), and he could not be required to furnish air-raid shelter for the persons employed therein.—*GOODCHILD v. ROMFORD BOROUGH COUNCIL*, [1940] 2 All E. R. 309; 104 J. P. 242; 56 T. L. R. 548; 84 Sol. Jo. 319; 38 L. G. R. 216. [81]

## ALLOTMENTS

ORDERS, CIRCULARS AND MEMORANDA :—

Defence (General) Regulations, 1939, Regulation 62A

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### ORDERS, CIRCULARS AND MEMORANDA

#### ORDER IN COUNCIL ADDING REGULATION 62A TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1940, No. 1838

December 20, 1939

At the Court at Buckingham Palace, the 20th day of December,  
1939.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of section one of the Emergency Powers (Defence) Act, 1939, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that after Regulation sixty-two of the

Defence (General) Regulations, 1939 (a), the following Regulation shall be inserted :—

*“ Power of Local Authority to let Land for Allotments.*

62A. (1) Any local authority which is in occupation of any land may, notwithstanding anything in any Act (including a private or local Act) or any trust or covenant or restriction affecting the land,—

- (a) adapt the land for use as allotment gardens ;
- (b) let the land for use by the tenants as allotment gardens or to any society having as its object the cultivation of vacant land for the purpose of sub-letting for such use.

(2) In this Regulation the expression ‘ allotment garden ’ has the same meaning as in the Allotments Act, 1922, and references to land in the occupation of a local authority include references to unoccupied land to the possession of which a local authority is entitled and land forming part of a park or open space which is under the management or control of a local authority.

(3) If any tenancy created under this Regulation is still in force when this Regulation expires it shall thereupon cease, and the tenant thereunder shall have the like rights as to compensation as he would have on the termination of his tenancy by the termination of that of his landlord.

(4) This Regulation shall, in its application to Scotland, have effect as if for the reference to the Allotments Act, 1922, there were substituted a reference to the Allotments (Scotland) Act, 1922.

(5) This Regulation shall, in its application to Northern Ireland, have effect subject to the following modifications :—

- (a) the council of a county shall not be a local authority for the purposes of his Regulation ;
- (b) any expenses incurred by a local authority for the purposes of this Regulation shall be defrayed as expenses incurred by them in the execution of the Public Health (Ireland) Act, 1878, and, in the case of the council of a rural district, shall be general expenses ; and
- (c) for references to allotment gardens there shall be substituted references to allotments to be cultivated by the tenants thereof.” [82]

\* \* \* \* \*

# ANIMALS

*See also* REGULATED INDUSTRIES, TRADES AND BUSINESSES.

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## STATUTES

### THE AGRICULTURE (MISCELLANEOUS WAR PROVISIONS) ACT, 1940

(3 & 4 Geo. 6, c. 14)

[21st March, 1940]

\* \* \* \* \*

**28. Regulations as to importation of livestock.**—(1) The Minister of Food, if he considers it expedient so to do having regard to any arrangement made by him for the purchase of livestock produced in the United Kingdom, may by regulations provide (subject to such exceptions, if any, as may be specified in the regulations) for the marking of livestock imported or brought into the United Kingdom or any class or description thereof.

(2) If any person—

(a) contravenes or fails to comply with any regulations made under the preceding subsection ; or

(b) with intent to deceive, alters or defaces any mark placed on an animal for the purposes of such regulations ;

he shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

(3) The Minister of Food, if he considers it expedient so to do having regard to any such arrangements, may also by regulations—

(a) determine the times and places at which livestock or any class or description thereof may be imported or brought into the United Kingdom from Eire or the Isle of Man ;

- (b) make provision as to the routes to be followed by livestock so imported or brought or any class or description thereof, and as to their detention for inspection ;

and any regulations made under this subsection may contain such provisions as appear to the said Minister to be necessary for securing the due operation and enforcement of the regulations, including provisions as to the forfeiture of livestock.

Sums retained out of the proceeds of any sale of livestock forfeited under any such provision as aforesaid shall be paid into the Exchequer.

(4) In this section the expression " livestock " means cattle, sheep and swine. [83]

By the Livestock (Import from Eire and the Isle of Man) Regulations, 1940 (S. R. & O., 1940, No. 1500), the Minister of Food has prohibited, except under licence, the importation of livestock from Eire and the Isle of Man except at certain specified ports (Ayr, Birkenhead, Bristol, Cardiff, Fishguard, Glasgow, Greenock, Heysham, Holyhead, Preston, Silloth and Stranraer in Great Britain and Belfast, Larne, Londonderry and Newry in Northern Ireland) or by certain land routes into Northern Ireland. Provision is also made for examination of animals on landing.

\* \* \* \* \*

## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL AMENDING REGULATION 9 . . . OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1940, No. 1016

*June 19, 1940*

\* \* \* \* \*

1. After paragraph (4) of Regulation nine of the Defence (General) Regulations, 1939 (hereinafter referred to as "the principal Regulations"), the following paragraph shall be inserted :—

"(4A) Notwithstanding anything in the Wild Birds Protection Acts, 1880 to 1939, or the Wild Birds Protection Act (Northern Ireland), 1931, or in any order made under any of those Acts, the Secretary of State may by order provide that, in any area specified in the order, being an area through which, in the opinion of the Secretary of State, homing pigeons carrying messages to or from members of His Majesty's Forces or other persons in His Majesty's service are likely to fly, it shall be lawful for any person authorised by or on behalf of the Secretary of State to take or destroy at any time peregrine falcons or the eggs of peregrine falcons. [84]

\* \* \* \* \*

# ORDER IN COUNCIL ADDING REGULATIONS . . . 25A, 25B . . . AND 79B TO THE DEFENCE REGULA- TIONS, 1939

*S. R. & O., 1940, No. 1134*

*July 2, 1940*

\* \* \* \* \*

5. After Regulation twenty-five of the principal Regulations there shall be inserted the following Regulations :—

**25A. "Power to control animals in the event of hostile attack.—**

(1) The Secretary of State may by order make such provision for the control of animals and vehicles drawn by animals as he considers expedient with a view to securing the public safety or maintaining public order in the event of hostile attack.

(2) Any such order may be made so as to apply either throughout Great Britain and Northern Ireland or to any areas therein.

(3) A constable in uniform may inspect any animal to which any such order applies and the harness or other equipment attached thereto for the purpose of ascertaining whether the order is being complied with, and, if the animal is in motion, any person driving, leading or otherwise in charge of the animal, shall stop the animal on being required so to do by the constable and render all reasonable assistance to the constable for the purpose of the exercise of his powers under this paragraph. [85]

**25B. "Stray dogs.—**(1) A person taking possession of a stray dog may, instead of returning the dog to its owner or taking it to a police station in accordance with subsection (1) of section four of the Dogs Act, 1906, as amended by any subsequent enactment, take the dog to any animal post within three miles from the place where the dog was found and inform the person in charge of that post where the dog was found.

(2) Where a dog is taken to an animal post under the foregoing paragraph, the person in charge of the post shall—

- (a) forthwith take such steps as may be reasonably practicable to trace the owner of the dog and restore it to him ;
- (b) within three days next following the day on which it was taken to the post, take the dog to the nearest police station, unless it has been restored to its owner ;

and where a dog is taken to a police station in pursuance of this paragraph, it shall be treated as if it had been seized by a police officer in pursuance of section three of the Dogs Act, 1906.

(3) The person in charge of an animal post shall enter in a register kept by him the following particulars as respects any dog taken to the post in pursuance of this Regulation, namely :—

- (a) a brief description of the dog ;
- (b) the date on which it was received by him ; and
- (c) the manner in which it was disposed of ;

and shall cause the said register to be open to inspection at all reasonable times by any member of the public.

(4) In this Regulation the expression 'animal post' means any post established, under arrangements approved by the Minister of Home Security, for dealing with animals in the event of hostile attack.

(5) This Regulation shall not extend to Northern Ireland." [86]

\* \* \* \* \*

12. After Regulation seventy-nine A of the principal Regulations there shall be inserted the following Regulation :—

**79B. "Power to slaughter dangerous and injured animals in the event of hostile attack.**—(1) In the event of the occurrence of hostile attack in the vicinity, any constable may—

- (a) with a view to securing the public safety or maintaining public order, slaughter any animal which appears to him to be—
  - (i) at large or out of control ; and
  - (ii) dangerous or seriously injured ;
- (b) with a view to preventing the wastage of food suitable for human consumption, slaughter any animal which appears to him to be seriously injured ;

Provided that the power conferred by sub-paragraph (b) of this paragraph shall not be exercised, if the owner of the animal is present and objects.

(2) A chief officer of police, if he considers it necessary or expedient so to do for the purpose of—

- (a) securing the public safety or maintaining public order ; or
- (b) preventing the wastage of food suitable for human consumption, in the event of hostile attack, may authorise in writing any person being a duly registered veterinary surgeon or an officer of an approved organisation to exercise the powers conferred on a constable by the foregoing paragraph.

(3) The power to slaughter an animal conferred by or under this Regulation shall include power—

- (a) to cause or procure the animal to be slaughtered by some other person ;
- (b) to enter, and to authorise any such other person to enter, upon any land for the purpose of the slaughter ; and
- (c) to remove and dispose of the carcase, or cause it to be removed and disposed of :—

Provided that—

- (i) except where an animal is slaughtered in a place to which the public have access, the power to remove the carcase shall not be exercised if the owner is present and objects ; and
- (ii) any person exercising the power to dispose of a carcase shall comply with such directions (if any) as may be given to him by the chief officer of police.

(4) In this Regulation the expression "approved organisation" means any organisation formed for the promotion of the welfare of animals and for the time being approved for the purpose of this Regulation by the Minister of Home Security.

(5) This Regulation shall, in its application to Northern Ireland, have effect as if for the reference to the Minister of Home Security there were substituted a reference to the Secretary of State." [87]

\* \* \* \* \*

# ORDER IN COUNCIL . . . ADDING REGULATION 62BA TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1217*

*July 10, 1940*

\* \* \* \* \*

8. After Regulation sixty-two B of the principal Regulations there shall be inserted the following Regulation :—

**62BA. "Agistment of livestock.**—(1) Where, by virtue of an order made under Regulation sixteen A or Regulation twenty-one of these Regulations, any livestock is removed from any land, or where the Minister of Agriculture and Fisheries thinks it necessary or expedient that any livestock should be removed from any land for the purpose of preserving the livestock or improving its condition, the said Minister may give directions—

- (a) to the owner or other person in charge of the livestock, requiring him to deliver the livestock for agistment to the occupier of any other land specified in the directions ; and
- (b) to the occupier of that other land, requiring him to agist the livestock ;

and any such directions may provide for determining the period for which and (in default of agreement) the terms on which the livestock is to be agisted, including terms conferring a lien on the agister and enabling him to sell the livestock to recover sums due to him in respect of the agistment.

(2) In the application of this Regulation to Scotland—

- (a) for any reference to the Minister of Agriculture and Fisheries there shall be substituted a reference to the Secretary of State ; and
- (b) the expression " agist " means to take in livestock to pasture in return for a money payment, and the expressions " agister " and " agistment " shall be construed accordingly.

(3) This Regulation shall, in its application to Northern Ireland have effect as if for references to the Minister of Agriculture and Fisheries there were substituted references to the Secretary of State. [88]

\* \* \* \* \*

# ORDER IN COUNCIL . . . AMENDING REGULATION . . . 62BA OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1536*

*August 20, 1940*

\* \* \* \* \*

6. In paragraph (1) of Regulation sixty-two BA of the principal Regulations for the words " or Regulation twenty-one " there shall be substituted the words " sixteen B or twenty-one." [89]

\* \* \* \* \*

## DESTRUCTION OF PEREGRINE FALCONS ORDER, 1940

*S. R. & O.*, 1940, No. 1164

July 1, 1940

In pursuance of the powers conferred on me by paragraph (4A) of Regulation 9 of the Defence (General) Regulations, 1939, I, Major the Right Honourable Sir Archibald Sinclair, Bt., C.M.G., M.P., Secretary of State for Air, hereby make the following Order :—

1. In any of the areas specified in the Schedule hereto it shall be lawful for any person authorised by me or on my behalf to take or destroy at any time peregrine falcons or the eggs of peregrine falcons. [90]

2. This Order may be cited as the Destruction of Peregrine Falcons Order, 1940. [91]

## SCHEDULE

## I. Areas in England and Wales :—

- (1) The County of Cornwall.
- (2) The Coastal areas of the County of Devon.
- (3) The County of Pembroke.
- (4) The County of Caernarvon.
- (5) The County of Anglesey.
- (6) The Coastal areas of the County of Denbigh.
- (7) The Coastal areas of the district of the North Riding of the County of York.

## II. Areas in Scotland :—

- (1) The Orkney Islands.
- (2) The Shetland Islands.
- (3) The County of Caithness.
- (4) That part of the Counties of Sutherland and Ross and Cromarty lying east of a line Kinbrace-Lairg-Loch Luichart Station and thence south to the boundary of Ross and Cromarty.
- (5) In the County of Inverness all the islands lying to the west of the Mainland.
- (6) County of Argyll including the Islands thereof.
- (7) The Islands of Arran and Bute.
- (8) The Coastal areas of the County of East Lothian and the islands adjacent thereto.

In this Schedule the expression "Coastal Area" means a coastal strip ten miles deep. [92]

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DESTRUCTION OF PEREGRINE FALCONS (NO. 2)  
ORDER, 1940*S. R. & O.*, 1940, No. 1708

September 16, 1940

In pursuance of the powers conferred on me by paragraph (4A) of Regulation 9 of the Defence (General) Regulations, 1939, I, Major the Right Honourable Sir Archibald Sinclair, Bt., C.M.G., M.P., Secretary of State for Air, hereby make the following Order :—

1. The Destruction of Peregrine Falcons Order, 1940, shall have

effect as if in addition to the areas specified in the Schedule thereto there were included in the said Schedule the areas specified in the Schedule to this Order. [93]

2. This Order may be cited as the Destruction of Peregrine Falcon (No. 2) Order, 1940. [94]

#### SCHEDULE

##### I. Areas in England and Wales :—

- (1) The Coastal areas of the County of Dorset.
- (2) The Coastal areas of the County of Sussex.
- (3) The Coastal areas of the County of Kent.

##### II. Areas in Scotland :—

- (1) The County of Ayr.
- (2) The County of Dumfries. [95]

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### REGULATION OF MOVEMENT OF SWINE (AMENDMENT) ORDER, 1940

*S. R. & O., 1940, No. 51*

*January 11, 1940*

(5909)

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, and of every other power enabling him in this behalf, hereby orders as follows :—

*Modification of Order of 1922 in respect of fat swine marked for slaughter.*

1. The Regulation of Movement of Swine Order of 1922 (hereinafter referred to as "the principal Order") shall be read and have effect subject to the modifications hereinafter contained :—

In *Article 2 (1) (a)*, for the words from and including "in the manner described" to the words "licence (Form C)" there shall be substituted the words "by an officer of the Ministry of Food with the Ministry of Food identification mark."

In *Article 3 (1) (a)*, the words "or a market, fairground or saleyard" and the words from and including "and are accompanied by a licence (Form C)" to the end of the sub-paragraph shall be omitted.

In *Article 3 (2)*, the words "or Form C" shall be omitted.

In *Article 4 (1)*, the words "and are accompanied by a licence (Form C)" shall be omitted.

In *Article 9 (1)*, for the words from and including "if accompanied by a licence (Form C)" to the end, there shall be substituted the words "if they are marked before the movement commences by an officer of the Ministry of Food with the Ministry of Food identification mark."

In *Article 9 (2)*, the words "or from premises in the occupation of or used by any pig dealer" shall be omitted, and for the words

from and including "in the manner described in Article II" to the words "licence (Form C)", there shall be substituted the words "by an officer of the Ministry of Food with the Ministry of Food identification mark."

After that paragraph there shall be inserted the following paragraph :—

"2A :—Swine may be moved from premises in the occupation of or used by any pig dealer in the Scheduled Area, either :—

- (a) to any bacon factory or slaughterhouse if the swine are marked before the movement commences in the manner described in Article II of this Order ; or
- (b) to any premises, except a market, fairground or saleyard, either within or outside the Scheduled Area, if accompanied by a licence (Form A)."

In Article 9 (3), the words "and are accompanied by a licence (Form C)" shall be omitted.

In Article 11, after the words "Where swine are required by this Order to be marked they shall" there shall be inserted the words "unless otherwise provided for in this Order."

In Article 12 (1), the words "with a licence" after the words "Where swine are moved" shall be omitted. [96]

2. The Orders specified in the Schedule to this Order shall be read and have effect as if in Article 1 of each of the Orders numbered 1173 and 1196, and in Article 2 of the Order numbered 1175 for the words from and including "accompanied by a licence in the Form C" to the end of the Article there were substituted the words :—

"marked by an officer of the Ministry of Food with the Ministry of Food identification mark." [97]

*Prohibition of Entry into Markets of Pigs marked with Red Cross.*

3. Swine which have been marked on the back with a red cross in the manner described in Article eleven of the principal Order shall not enter or be exposed at any market, fairground, or saleyard. [98]

*Interpretation.*

4. The term "market" in this Order and the principal Order shall include a collecting centre used by the Ministry of Food for the reception of fat pigs intended for immediate slaughter.

"Ministry of Food identification mark" means a serial number stamped on the back of the pig in red letters by an officer or agent of the Ministry of Food. [99]

*Commencement.*

5. This Order shall come into operation on the fifteenth day of January, nineteen hundred and forty. [100]

*Short Title.*

6. This Order may be cited as the Regulation of Movement of Swine (Amendment) Order of 1940. [101]

## SCHEDULE

*Orders referred to in Article 2.*

No.	Date.	Short title.
	1922.	
1173	13th October	Birmingham (Montague Street Market) (Swine Fever) Order of 1922.
1175	19th October	Newcastle-upon-Tyne Markets (Swine Fever) Order of 1922.
1196	4th November	Manchester (Water Street Market) (Swine Fever) Order of 1922.

[102]

EXPORTATION AND TRANSIT OF HORSES, ASSES  
AND MULES (AMENDMENT) ORDER, 1940*S. R. & O., 1940, No. 128**January 25, 1940*

(5921)

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, and of every other power enabling him in this behalf, hereby orders as follows :—

*Provision for shipment of horses from Ipswich.*

1. Paragraph (2) of Article 1 of the Exportation and Transit of Horses, Asses and Mules Order of 1921, shall have effect as if the port of Ipswich were included in the ports therein referred to as authorised ports of shipment. [103]

*Citation.*

2. This Order may be cited as the Exportation and Transit of Horses, Asses and Mules (Amendment) Order of 1940. [104]

\*                      \*                      \*                      \*

FOREIGN HAY AND STRAW (AMENDMENT) ORDER,  
1940*S. R. & O., 1940, No. 303**February 28, 1940*

5930.

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, and of every other power enabling him in this behalf, hereby orders as follows :—

*Withdrawal of Prohibition on landing of hay and straw from the Union of South Africa.*

1. The prohibition on the landing in Great Britain of hay and straw brought from the Union of South Africa (including the Mandated

Territory of South-West Africa) which was imposed by the Foreign Hay and Straw (Amendment) Order of 1937 (No. 6), is hereby withdrawn and the Foreign Hay and Straw Order of 1912, shall be read and have effect as if the "Union of South Africa (including the Mandated Territory of South-West Africa)" were included in the Schedule (*Countries from which Importation is not Prohibited*) to that Order. [105]

*Revocation.*

2. The Foreign Hay and Straw (Amendment) Order of 1937 (No. 6) is hereby revoked. [106]

*Commencement and Short Title.*

3. This Order shall come into operation immediately and may be cited as the Foreign Hay and Straw (Amendment) Order of 1940. [107]

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## WARBLE FLY (DRESSING OF CATTLE) (AMENDMENT) ORDER, 1940

*S. R. & O., 1940, No. 345*

*March 6, 1940*

5934.

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, and of every other power enabling him in this behalf, hereby orders as follows :—

*Amendment of Article 1 of Order of 1936.*

1. The Warble Fly (Dressing of Cattle) Order of 1936, shall be read and have effect as if in paragraph (2) of Article 1 thereof (which relates to measures for destruction of the parasite) the words "either (a)", the word "or" at the end of sub-paragraph (a), and the whole of sub-paragraph (b) were omitted. [108]

*Short Title.*

2. This Order may be cited as the Warble Fly (Dressing of Cattle) (Amendment) Order of 1940. [109]

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## BRUCELLOSIS MELITENSIS ORDER, 1940

S. R. &amp; O., 1940, No. 1251

July 3, 1940

5956.

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The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, the Agriculture Act, 1937, and of every other power enabling him in this behalf, hereby orders as follows:—

*Compulsory Slaughter of Diseased Animals.*

1. The Minister may if he thinks fit cause to be slaughtered any animal which in his opinion is affected with brucellosis melitensis or has in his opinion been in any way exposed to the infection of that disease. [110]

*Compensation.*

2. The Minister shall for animals slaughtered under the provisions of Article 1 of this Order pay compensation of a sum equal to the value of the animal immediately before it was slaughtered disregarding the fact that the animal is affected with brucellosis melitensis or has been exposed to the infection of that disease. [111]

*Value for Compensation.*

3. The valuation of an animal as required for the purpose of compensation shall, before slaughter, be ascertained by agreement in writing between the Minister and the owner of the animal, and shall, in case of dispute, be ascertained in the manner provided by the Animals (Miscellaneous Provisions) Order of 1927. [112]

*Detention and Isolation of Animals and Precautions to be Adopted to Prevent the Spread of Infection.*

4.—(1) A Veterinary Inspector, acting under the general or special direction of the Minister, may by notice served on the owner or person in charge of any animal, which in the opinion of the Minister is affected with brucellosis melitensis or which he suspects is so affected or which

has been in any way exposed to the infection of that disease, require the owner or person in charge to detain the animal on the premises specified in the notice and to keep the animal isolated, as far as practicable, from other animals, and with a view to prevent the spread of infection to adopt such other precautions as may be specified in the notice.

(2) A Veterinary Inspector acting under the direction of the Minister may, by subsequent notice in writing to the owner or person in charge of the animal, direct that—

(a) such additional precautions as may be specified in such subsequent notice shall be adopted ; or

(b) any requirement specified in any notice served under this Article shall cease to apply or shall be modified to the extent or in the manner specified in such subsequent notice.

(3) For the purposes of this Article an animal which forms part of or is or has been in contact with any herd, flock or other group of animals in which the Minister has reason to believe that the disease exists or has existed may be suspected to be affected with brucellosis melitensis.

(4) A copy of any Notice served by a Veterinary Inspector under this Article shall, with all practicable speed, be sent by him to the Local Authority. [113]

5. No animal shall be permitted to enter any premises in respect of which a Notice has been served under Article 4 of this Order and is still in force except with a licence granted by a Veterinary Inspector and in accordance with such conditions as may be specified therein. [114]

#### *Cleansing and Disinfection.*

6.—(1) The Occupier of any premises on which there is or has been an animal in respect of which any Notice under Article 4 of this Order has been served shall if so required by notice in writing served by a Veterinary Inspector cleanse and disinfect in accordance with the provisions of the notice any shed or other place in which the animal has been placed or kept, and any utensil, pen, hurdle or other thing used for or about the animal, and shall treat or dispose of any dung, broken fodder and litter in such shed or other place in such manner as may be prescribed in the notice. A copy of any such notice served by a Veterinary Inspector shall with all practicable speed be sent by him to the Local Authority.

(2) A notice served under this Article may provide that the cleansing and disinfection shall be at the expense of the Minister, or at the expense of the occupier.

(3) If the occupier of any premises fails to cleanse and disinfect any shed or other place, or any utensil, pen, hurdle or other thing, or to treat or dispose of dung, broken fodder and litter when required under this Article, it shall be lawful for the Minister without prejudice to the recovery of any penalty for the infringement of this Article to cause such shed or other place or utensil, pen, hurdle or other thing to be cleansed and disinfected, and to treat or dispose of dung, broken fodder and litter, and to recover summarily as a civil debt the expenses of such cleansing and disinfection and treatment or disposal from the occupier. [115]

*Extension of meaning of "Disease" for the purposes of the Diseases of Animals Act, 1894, and Application of Section 22 of the Agriculture Act, 1937.*

7. The definition of "disease" in the Act of 1894 is hereby extended so as to include brucellosis melitensis which shall also be a disease to which section twenty-two of the Agriculture Act, 1937, applies. [116]

#### *Offences.*

8. Any person committing or aiding, abetting, counselling or procuring the commission of any breach of the provisions of this Order or of any notice served thereunder; or failing to comply with any such provisions or with any direction or requirement given or made under this Order, shall be deemed guilty of an offence against the Act of 1894. [117]

#### *Local Authority to Enforce Order.*

9. The provisions of this Order, except where it is otherwise provided, shall be executed and enforced by the Local Authority. [118]

#### *Interpretation*

10. In this Order, unless the context otherwise requires:—

"Animal" means cattle, sheep, goats and swine:

"The Act of 1894" means the Diseases of Animals Act, 1894:

"The Minister" and "The Ministry" mean respectively the Minister and the Ministry of Agriculture and Fisheries:

"Local Authority" means a Local Authority for the purposes of the Act of 1894:

"Veterinary Inspector" means Veterinary Inspector of the Ministry.

Other terms have, where the context so permits, the same meaning as in the Act of 1894. [119]

#### *Extent.*

11. This Order extends to England and Wales and Scotland. [120]

#### *Commencement.*

12. This Order shall come into operation on the third day of July nineteen hundred and forty. [121]

#### *Short Title.*

13. This Order may be cited as the Brucellosis Melitensis Order of 1940. [122]

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# FOOT-AND-MOUTH DISEASE (BOILING OF ANIMAL FOODSTUFFS) (AMENDMENT) ORDER, 1940

S. R. & O., 1940, No. 1795

September 27, 1940.

5966.

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, and of every other power enabling him in this behalf, hereby orders as follows :—

*Amendment of Article 1 of Foot-and-Mouth Disease (Boiling of Animal Foodstuffs) Order of 1932.*

1. Article 1 of the Foot-and-Mouth Disease (Boiling of Animal Foodstuffs) Order of 1932 (hereinafter referred to as "the principal Order") shall be read and have effect as if the following subsection were inserted therein after subsection (2) thereof :—

"(3) The provisions of this Article shall not apply to swill obtained from premises in respect of which the occupier thereof holds an effective certificate from the Minister or the Local Authority certifying that all swill supplied therefrom is subjected on such premises to a process of boiling within the meaning of this Order."

[123]

*Certification as to Boiling of Swill.*

2. —(1) A Local Authority may, in respect of any premises, except such as are owned or occupied by such Local Authority or by an officer or servant thereof, grant to the occupier thereof a certificate to the effect that all swill supplied therefrom is subjected thereon to a process of boiling within the meaning of the principal Order, if it is satisfied that adequate arrangements are in force to ensure that all swill removed from such premises is so boiled and that all reasonable precautions are taken thereon to prevent the contamination of the boiled swill by or with any of the articles mentioned in Article 1 of the principal Order which have not been so boiled.

(2) Certificates in respect of premises owned or occupied by Local Authorities or by officers or servants of such Local Authorities shall be granted by the Minister. [124]

*Local Authority to enforce Order.*

3. The provisions of this Order shall be executed and enforced by the Local Authority. [125]

*Short Title.*

4. This Order may be cited as the Foot-and-Mouth Disease (Boiling of Animal Foodstuffs) (Amendment) Order of 1940. [126]

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## DEER ORDER, 1940

*S. R. & O.*, 1940, No. 966

*June 13, 1940*

In pursuance of Regulation 63 (2) of the Defence (General) Regulations, 1939, the Minister of Agriculture and Fisheries (hereinafter referred to as "the Minister") hereby makes the following Order:—

1. The persons who are for the time being appointed by the Minister as members of the War Agricultural Executive Committee (hereinafter referred to as "the Committee") for any administrative county in England or Wales are authorised to exercise the powers of the Minister under Regulation 63 (2) within that administrative county so far as is necessary for the purposes of this Order. [127]

2. If it appears to the Committee that for the purpose of preserving crops, trees, pasturage, fences, banks or works, it is expedient by Order to authorise the killing of deer upon any land specified in the Order, they may by Order authorise any person or any class or description of persons to enter upon that land at any time to take such steps as may be specified in the Order for the purpose of killing deer. [128]

3. The Committee may give such directions as appear to them to be expedient with respect to the disposal of deer killed, whether for the purpose of being used for food or otherwise. [129]

4. Nothing herein contained shall be deemed to authorise the putting of any poison or poisonous ingredient on any land or to authorise the use of firearms between the expiration of the first hour after sunset and the commencement of the last hour before sunrise, or to be deemed to exempt any person from the provisions of the Gun Licence Act, 1870. [130]

5. This Order applies to England and Wales. [131]

6. This Order may be cited as the Deer Order, 1940. [132]

\* \* \* \* \*

## SECURING OF HORSES (DEFENCE) (NO. 2) ORDER, 1940

*S. R. & O.*, 1940, No. 1857

*October 19, 1940*

In pursuance of the powers conferred on me by Regulations 25A and 38 of the Defence (General) Regulations, 1939, I hereby make the following Order:—

1. No person shall cause or permit any horse to be on a road in a built-up area within the meaning of section one of the Road Traffic Act, 1934, as amended by any subsequent enactment, unless the horse is wearing a halter with a rope or two ropes attached thereto and the halter and the rope or ropes comply with the following provisions—

(a) the halter shall be made of webbing, rope or leather;

- (b) the halter shall be so adjusted and shall be of such strength, and the rope or ropes shall be so attached thereto and shall be of such length and strength, that the horse can be securely tethered thereby ;
- (c) except when the horse is being led, or is tethered, by the rope or ropes, the rope or ropes shall be bestowed on the horse in such manner that the whole length thereof can immediately be made available for tethering the horse. [133]

2. Where a person is in charge of a horse in any highway or other public place to which the public have access and there is immediate danger from a hostile attack which is in progress in the vicinity, he shall comply with any directions which may be given by a constable that the horse shall be secured until the immediate danger has ceased and with any further directions which may be given by the constable as respects the manner or place in which the horse is to be secured and as respects the place in which any vehicle drawn by the horse is to be left while the horse is so secured :

Provided that no such direction shall be given unless the constable is satisfied that it is necessary for the public safety that the horse shall be secured. [134]

3.—(1) Nothing in this Order shall apply to a horse or vehicle which is for the time being in the charge of a member of His Majesty's forces or constable in the course of his duty as such.

(2) A chief officer of police may give directions in writing directing that any of the provisions of Article 1 of this Order shall not apply to horses, or to such horses as may be specified in the directions, being on roads in his area or on any such roads so specified ; and any such directions may apply either generally or in respect of such occasions as may be specified therein, and either unconditionally or subject to such conditions as may be so specified. [135]

4. In this Order the following expressions have the meanings hereby respectively assigned to them—

“ halter ” includes a neck collar ;

“ horse ” includes a mare, gelding, pony, foal, colt, filly and stallion, and any reference to a horse shall be construed as including a reference to a mule, jennet and ass. [136]

5.—(1) This Order may be cited as the Securing of Horses (Defence) (No. 2) Order, 1940.

(2) This Order shall come into operation on the twenty-first day of October, nineteen hundred and forty.

(3) The Securing of Horses (Defence) Order, 1940, is hereby revoked. [137]

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## WILD BIRDS PROTECTION

The following Orders have been made :—

Area.	Number.	Date.
Norfolk ... ..	10	January 1st.
Essex ... ..	167	January 31st.
Gloucester ... ..	588	April 10th.
Berks ... ..	921	May 31st.
Devon ... ..	1387	July 23rd.
Birkenhead ... ..	1525	August 9th.
Cambridge ... ..	1526	August 14th.
West Suffolk ... ..	1977	November 6th.

[138]

## CASES

*Escape on to Highway—Escape from Pen Provided by Local Authority at Cattle Market for Cattle Waiting to be Certified for Subsidy—Liability of Local Authority—Livestock Industry Act, 1937 (c. 50)—Cattle Subsidy Scheme (Approval) Order, 1937 (S. R. & O., 1937, No. 659), Schedule, Para. 1.*

The S. Market, which was owned by appellant council, was an approved certification centre for the purposes of the Cattle Subsidy Scheme, 1937. That scheme required, *inter alia*, that the place where animals were to be examined should be equipped with adequate penning accommodation for cattle. P., a local farmer, sent a number of steers in charge of employees to the market to be graded. The man in charge of the centre put them in a pen which was ordinarily used for the purpose of a normal market day. The pen consisted of permanent obstructions on three sides, while in front was a chain. Waiting at the market to meet the animals was B., who was appellant's husband and P.'s foreman. One of the steers, while waiting to be graded, escaped under the chain, ran amok, and knocked down and killed B., whose widow sued appellant council as the highway authority and the owners of the market, founding her action both in negligence and in nuisance :—

*Held* : as P., through his employees, had at all times retained control of the animal, and as appellant council, though they had allowed it to be brought into the pen for the purpose of certification, had not at any time assumed any control over it, they were under no liability for injuries caused by its escape.—BRACKENBOROUGH v. SPALDING URBAN DISTRICT COUNCIL, [1940] 1 K. B. 675 ; [1940] 1 All E. R. 384 ; 109 L. J. K. B. 338 ; 162 L. T. 412 ; 104 J. P. 154 ; 56 T. L. R. 323 ; 84 Sol. Jo. 287 ; 38 L. G. R. 142—C. A. [139]

## ASSESSMENT COMMITTEES

*See RATES AND RATING.*

## ASSESSMENT FOR RATES

*See RATES AND RATING.*

## BAKEHOUSES

*See FACTORIES.*

## BUILDING

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## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL ADDING A NEW REGULATION 56A TO, AND AMENDING REGULATION 87 OF, THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1678*

*September 4, 1940*

At the Court at Buckingham Palace, the 4th day of September, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows :—

1. After Regulation fifty-six of the Defence (General) Regulations, 1939, there shall be inserted as a new Regulation fifty-six A, the following Regulation :—

56A. "Control of building operations, etc.—(1) The execution in

the United Kingdom of any building or constructional operation, other than—

- (a) an operation undertaken on behalf of His Majesty or in pursuance of a contract with His Majesty for the execution thereof,
- (b) an operation, the cost of which, or any part of the cost of which, a government department has agreed to defray, or
- (c) an operation undertaken by a local authority for the purpose of the discharge of functions under the Civil Defence Acts, 1937 and 1939,

shall be unlawful except in so far as it is authorised, in the case of an operation undertaken for a purpose specified in the first column of the Table set out at the end of this paragraph, by the authority specified in relation to that purpose in the second column of that Table, or, in any other case, by a licence granted by the Commissioners of Works :

Provided that—

- (i) in the case of an operation undertaken for a purpose specified in the first column of the said Table and commenced before the date of the coming into operation of this Regulation, this Regulation shall not have effect ; and
- (ii) in the case of an operation undertaken for any other purpose and commenced before that date, if an application for a licence is made to the Commissioners of Works within the period of fourteen days beginning with that date, this Regulation shall not restrict the execution of the operation until the application has been disposed of.

TABLE

<i>Purposes for which operation undertaken.</i>	<i>Authority who may authorise the execution of the operation.</i>
The discharge by a local authority of functions for any purpose not being a purpose specified in the subsequent provisions of this Table.	The Minister of Health.
The discharge by a local authority of functions under the Education Acts, 1921 to 1939.	The Board of Education.
The discharge by a highway authority of any of their functions.	The Minister of Transport.
The carrying on of the following public utility undertakings :—	
(a) An undertaking for the supply of electricity.	The Electricity Commissioners.
(b) An undertaking for the supply of gas.	The Board of Trade.
(c) An undertaking for the supply of water.	The Minister of Health.
(d) A railway, light railway, tramway, road transport, inland water transport, canal, inland navigation, dock, harbour or pier undertaking.	The Minister of Transport.
(e) A sewerage or sewage disposal undertaking, or an undertaking for the collection or disposal of refuse.	The Minister of Health.
(f) An undertaking of a drainage authority.	The Minister of Agriculture and Fisheries.
The carrying on of mining or quarrying operations.	The Board of Trade.

(2) An authorisation or licence granted for the purposes of this Regulation may be granted subject to conditions, and may be limited so as to authorise the execution of an operation in part only.

(3) If any condition attached to an authorisation or licence granted for the purposes of this Regulation is contravened or not complied with, then, whether or not the authorisation or licence is revoked, the person having the control of the operation in question shall be guilty of an offence against this Regulation.

(4) It shall be a defence for a person charged with an offence against this Regulation to prove that, immediately before the commencement of the operation in respect of the execution of which he is charged, or, where the operation was commenced before the date of the coming into operation of this Regulation, immediately before that date, he had reasonable ground for believing that the cost of the operation, or the cost of completing it, as the case may be, would not exceed five hundred pounds.

(5) It shall be a defence for a person charged with an offence against this Regulation in respect of the execution of an operation consisting of reconstruction undertaken for a purpose specified in the first column of the Table set out at the end of paragraph (1) of this Regulation to prove that the acts done without authorisation were urgently necessary for that purpose, and were done in circumstances of emergency which rendered it impracticable to obtain authorisation thereof.

(6) A person who is required by or under an enactment to execute any building or constructional operation the execution of which is restricted by this Regulation, and who duly makes application for an authorisation or licence under this Regulation in respect of the execution thereof, shall not be treated as having acted in contravention of that enactment by reason of his failure to execute that operation in so far as the failure to execute it is attributable to the refusal of his application or to any conditions subject to which the authorisation or licence applied for is granted or the limitation thereof as mentioned in paragraph (2) of this Regulation.

(7) In this Regulation the following expressions have the meanings hereby assigned to them respectively, that is to say :—

‘building or constructional operation’ means the construction, reconstruction or structural alteration of a building, of works of a kind required for the purpose of a public utility undertaking, or of any other fixed works of construction or civil engineering, including a road ;

‘local authority’ means the Common Council of the City of London, the council of a metropolitan borough, or the council of a county, county borough or county district, or a joint board or joint committee constituted under any enactment to discharge the functions of two or more such councils ;

‘mining or quarrying operations’ means the getting of minerals from a mine or quarry to which the provisions of the Metalliferous Mines Regulation Act, 1872, or of the Coal Mines Act, 1911, or any of those provisions, apply, or would apply but for any temporary exclusion thereof for the time being in force, the dressing of such minerals and the preparation thereof for sale.

(8) . . .

(9) . . .

(10) This Regulation shall come into operation on the seventh day of October, nineteen hundred and forty." [140]

2. In Regulation eighty-seven of the Defence (General) Regulations, 1939, after the word "permission", in the first place in which that word occurs, there shall be inserted the words "or authorisation", and for the words "or permission" there shall be substituted the words "permission or authorisation". [141]

3. Regulation fifty-six A of the Defence (General) Regulations, 1939, shall be re-numbered as Regulation fifty-six B. [142]

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## MINISTRY OF HEALTH CIRCULAR

*Circular 2033*

*May 31, 1940*

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### REPAIR OF WAR DAMAGE.

SIR,—In connection with the repair of war damage, local authorities, other bodies and private persons may find that the making of plans and sketches is essential to the carrying out of the works of repair. Under the Control of Photography Order (No. 1), 1939 (S. R. & O., 1939, No. 1125), made by the Secretary of State for War under the Defence Regulations, 1939, the making of any photograph, sketch or other representation of "any building, building structure, . . . or other object damaged by enemy action or as a result of steps taken to repel enemy action" is forbidden except under the authority of a written permit granted by the Secretary of State or on his behalf. In order to obviate the necessity of individual applications to the Service authorities for permits for the making of plans and sketches when required in connection with the repair of war damage, the Secretary of State has authorised the Clerks of Local Authorities to issue such permits. A copy of his Warrant to that effect is enclosed.

A similar authorisation has not been given for permits to take photographs and application for such permits should be made to the General Officer Commanding-in-Chief of the Command in which the premises are situated.

The authority to issue permits in respect of plans and sketches extends only to buildings and structures damaged by war action within the districts of the local authority. Permits must be issued only to architects, surveyors and engineers who are British subjects by birth, and no plans or sketches made under the permits may be published without the approval of the Press and Censorship Bureau.

It is of the utmost importance that the foregoing conditions should be strictly observed, and that the issue of permits, whether to persons in the employment of the local authority or otherwise, should be confined to cases where the local authority are satisfied that the making of plans and sketches is clearly essential.

All permits issued under this authority must be made out on D.R. Form 6, a copy of which is annexed, and a copy of the printed endorsement, also annexed, must be affixed to page 4 of each such permit. The document of identity referred to on page 3 of D.R. Form 6 must be either a green National Registration Identity Card or a valid British passport. The attention of the holder should be drawn to the conditions printed on the permit.

Supplies of D.R. Form 6 and of the printed endorsement can be obtained from the Regional Offices of the Ministry when required, or, in advance, if the local authority so desire. [143]

I am, Sir, etc.

## REPAIR OF WAR DAMAGE

### COPY OF SECRETARY OF STATE'S AUTHORISATION

In pursuance of the provisions of paragraph 2 of the Control of Photography Order (No. 1), 1939, I hereby authorise the Clerks of all County Councils, County Borough Councils, Borough Councils, Urban District Councils and Rural District Councils in England and Wales, and all County Clerks and all Town Clerks of Burghs in Scotland to grant permits on my behalf for the making of sketches or plans of any buildings, structures or plant, situated in their respective districts, damaged by enemy action or as a result of steps taken to repel enemy action.

Provided that such permits shall be granted only to architects, surveyors or engineers who are British subjects by birth.

Provided also that plans or sketches made under the authority of any such permit shall not be published without the approval of the Press and Censorship Bureau. [144]

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## BURIAL AND CREMATION

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### ORDERS, CIRCULARS AND MEMORANDA

#### ORDER IN COUNCIL AMENDING REGULATION . . . 30 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1940, No. 1134

*July 2, 1940*

\* \* \* \* \*

6.—(1) In paragraph (1) of Regulation thirty of the principal Regulations for the word "interment" there shall be substituted the

word "disposal", and in paragraph (2) thereof for the word "disposal" there shall be substituted the word "interment".

(2) After paragraph (6) of the said Regulation thirty, the following paragraph shall be inserted :—

"(6A) Where an application is made under Regulation seven of the Cremation Regulations, 1930, for the cremation of the body of a deceased person, and there is produced to the medical referee or the deputy medical referee of the crematorium a certificate given under the hand of the registrar of deaths in pursuance of section two of the Births and Deaths Registration Act, 1926, or a duplicate thereof issued under subsection (4) of that section, showing—

- (a) that the death of the deceased has been registered as being due to war operations, or
- (b) that the death is not required by law to be registered in England and that satisfactory evidence has been produced that the death was due to war operations,

the following provisions of the Cremation Regulations, 1930, shall not apply, that is to say—

- (i) Regulation eight, except so far as it requires the cremation to be authorised in writing by the medical referee of the crematorium ;
- (ii) paragraph (3) so far as it relates to certificates, and paragraphs (5) and (6) of Regulation twelve."

(3) For paragraph (7) of the said Regulation thirty the following paragraph shall be substituted :—

"(7) In this Regulation—

- (a) the expression 'body' includes part of a body ;
- (b) the expression 'the Cremation Regulations, 1930' means the Regulations dated October 28, 1930, made by the Secretary of State for the Home Department, under section seven of the Cremation Act, 1902, and section ten of the Births and Deaths Registration Act, 1926."

(4) At the end of paragraph (8) of the said Regulation thirty the following sub-paragraph shall be added :—

"(e) for paragraph (6) there shall be substituted the following paragraph—

"(6A) Where, on an application for the cremation of the body of any deceased person, there is produced to the medical referee or the deputy medical referee of the crematorium a certificate by a qualified medical practitioner to the effect that death was due to a specified cause which is consistent with death directly due to war operations, together with either—

- (a) a certificate given by a person authorised by the Secretary of State to act under this Regulation that the body is the body of a person who has died in consequence of war operations ; or
- (b) a certificate of registration under the hand of the registrar of births, deaths and marriages in the form of Schedule I appended to the Registration of Births, Deaths and Marriages (Scotland) Act, 1854 ; or

- (c) a certificate given under the hand of the registrar of deaths in pursuance of section two of the Births and Deaths Registration Act, 1926, or a duplicate thereof issued under subsection (4) of that section showing that the death of the deceased has been registered ;

the following provisions of the Cremation (Scotland) Regulations, 1935, shall not apply, that is to say—

- (i) Regulation six ;
- (ii) Regulation eight ;
- (iii) in Regulation twelve, paragraph (d), and the words from ‘ In the event of any suspicious circumstances ’ to the end of the Regulation.” [145]

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## EMERGENCY MEDICAL SERVICE

*Circular 1941*

*December 30, 1939*

### DECEASED TRANSFERRED PATIENTS

SIR,—I am directed by the Minister of Health to say that he has been giving consideration to the arrangements to be made for the burial of patients transferred from one hospital to another under the emergency hospital arrangements, and who die in the receiving hospital, in those cases where relatives do not arrange for the funeral at their own expense. As your Council are aware, where a person evacuated under the Government evacuation scheme dies in similar circumstances it has been arranged that the receiving authority should undertake responsibility for the burial of the body in their area, the cost falling to be reimbursed by the Minister as an item in the Evacuation Account. It appears to the Minister that hospital patients evacuated should be dealt with in the same way, and he would be glad, therefore, if your authority would arrange for the burial of such persons, on application to them by the hospital authority, in those cases where relatives do not arrange for the funeral at their own expense. The burial should be carried out in a decent and seemly fashion, and the cost included as an item in the Evacuation Account for reimbursement by the Minister. The Minister is not prepared to reimburse the cost of transferring bodies from the receiving area back to the patient's home district.

Hospital Authorities have been informed that local authorities will make arrangements accordingly, and I am to ask that your Council will take such action as may be necessary.

I am, Sir, etc. [146]

# CANALS

ORDERS, CIRCULARS AND MEMORANDA :—  
Canals (Limitation of Tolls) Order, 1940

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## ORDERS, CIRCULARS AND MEMORANDA

### CANALS (LIMITATION OF TOLLS) ORDER, 1940

*S. R. & O.*, 1940, No. 999

*June 10, 1940*

In exercise of the powers conferred on him by Regulation 55 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf the Minister of Transport (hereinafter called "the Minister") hereby orders as follows :—

1. The tolls charged by Canal Undertakers (including Railway Companies in respect of their canal undertakings) at the date of this Order shall not be increased save with the consent of the Minister.  
[147]

2. This Order may be cited as the Canals (Limitation of Tolls) Order, 1940. [148]

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## CATCHMENT BOARDS

*See LAND DRAINAGE.*

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## CATTLE ON HIGHWAYS

*See ANIMALS.*

## CENSUS

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## ORDERS, CIRCULARS AND MEMORANDA

NATIONAL REGISTRATION AMENDMENT  
REGULATIONS, 1939*S. R. & O., 1939, No. 1836**December 18, 1939*

102659.

In exercise of the powers conferred on us by the National Registration Act, 1939, and of all other powers enabling us in that behalf, acting jointly, we hereby make the following regulations :—

1. These regulations may be cited as the National Registration Amendment Regulations, 1939, and shall be read as one with the National Registration Regulations, 1939 (hereinafter referred to as "the principal regulations"). [149]

2. If a registered person applies on a form to be provided for the purpose to a local national registration officer or registrar or other person appointed by the Registrar-General to receive such applications, the appropriate central national registration officer may issue to him, on surrender of his identity card, a card, in a form to be approved by the Registrar-General, containing, in addition to the particulars indicated in the Third Schedule to the principal regulations, the further particulars and means of identification set out in the Schedule to these regulations, and a card so issued shall for the purposes of the Act and regulations be that person's identity card. [150]

3. A registered person who is not liable under the National Service (Armed Forces) Act, 1939, to be called up for service in the armed forces of the Crown may notify the appropriate central national registration officer on a form to be provided for the purpose that he claims not to be liable for such service, and the central national registration officer may record the claim in the central index :

Provided that in the case of a registered person being a person who is mentioned in paragraph (f) of subsection (1) of section 11 of that Act such notification may be given by the person who is for the purposes of these regulations deemed to be in charge of the registered person. [151]

## SCHEDULE

Further particulars and means of identification to be incorporated in a card issued under regulation 2.

Photograph	} of the registered person.
Signature	
Place of birth	
Date of birth	
Visible distinguishing marks, if any	

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[152]

## THE NATIONAL REGISTRATION AMENDMENT REGULATIONS, 1940

*S. R. & O., 1940, No. 814*

*May 27, 1940*

102908.

In exercise of the powers conferred on us by the National Registration Act, 1939, and of all other powers enabling us in that behalf, acting jointly, we hereby make the following regulations :—

1.—(1) These regulations may be cited as the National Registration Amendment Regulations, 1940, and shall be read as one with the National Registration Regulations, 1939 (in these regulations referred to as “ the principal regulations ”).

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [153]

2. In paragraph (2) of regulation 1 of the principal regulations there shall be inserted after the definition of the expression “ prescribed person ” the following definition :—

“ ‘ registered address ’ in relation to a person registered under the Act means the address stated on the registration return made in respect of him, or, if a notice of removal under regulation 19 has been given in respect of him, the address stated in the last such notice.” [154]

3.—(1) A registered person who has attained the age of 16 years shall forthwith complete his identity card by entering his registered address or, in a case where he has changed his place of residence and notice of removal under regulation 19 has not yet been given, the address to which he has removed, and affixing his signature and the date in the spaces provided thereon for the purpose :

Provided that in the case of such a registered person of whom some other person is for the purposes of these regulations deemed to be in charge it shall be the duty of that other person to enter such address and to secure that the card is forthwith signed and dated by the person to whom it relates.

(2) A person who is for the purposes of these regulations deemed to be in charge of a person who has not attained the age of 16 years shall forthwith complete the identity card relating to such person by entering the registered address of that person or, in a case where he has changed his place of residence and notice of removal under regulation 19 has not yet been given, the address to which he has removed, and affixing his own signature and the date and shall also write on the card immediately below the name of the person to whom it relates the word “ aged ” followed by the age of the person in years on his last birthday. [155]

4. The following regulations shall be substituted for regulation 19 of the principal regulations :—

“ 19. Subject to the provisions of regulation 19A, every registered person upon changing his place of residence after the appointed time shall, within seven days thereafter, attend at the office of the local national registration officer for the local area in which his new

place of residence is situate and shall there produce his identity card and give notice of the removal and such particulars relating thereto as may be required on a form to be provided by the Registrar-General :

Provided that—

- (i) in the case of a registered person (not being a person mentioned in the next succeeding proviso) of whom for the purposes of these regulations some other person is deemed to be in charge the notice and particulars shall be given and the identity card produced by that other person ; and
- (ii) in the case of a registered person who is an inmate of a casual ward or is detained on the premises of any civil prison, lock-up or other place of detention the notice and particulars shall be given by the person who for the purposes of these regulations is deemed to be in charge of him at such times and in such manner as shall be specified in arrangements to be made by the Registrar-General with the appropriate Departments, and in such a case production of the relevant identity card shall not be required.

19A. A registered person who is temporarily absent for any period from his registered address, being his usual residence and one to which he intends and expects to return, shall not be liable to give a notice of removal under regulation 19 in respect of such absence, if and so long as arrangements made by him secure—

- (i) that postal communications addressed to him at the registered address reach him without undue delay ; and
- (ii) that his actual address for the time being is ascertainable upon enquiry at the registered address by the local national registration officer for the local area in which the registered address is situate or by any other person authorised in that behalf by the Registrar-General.” [156]

5. (1) Sub-paragraph (a) and the words “(b) in any other case” in sub-paragraph (b) of paragraph (3) of regulation 20 of the principal regulations are hereby revoked.

(2) At the end of the said regulation the following provision shall be added :—

“(4) A person who is authorised to require the production of an identity card may require any person who fails to produce his identity card on demand and as regards whom he is not satisfied that a registration return has been made to attend forthwith at the office of a local national registration officer and complete a return on a form to be provided for the purpose by the Registrar-General.” [157]

6. The following regulation shall be inserted immediately after regulation 36 of the principal regulations :—

“36A. A person who has in his possession or on premises under his control an identity card which does not relate to him or to any person of whom he is for the purposes of these regulations deemed to be in charge or to any person for the time being residing on the premises or in lieu of which a duplicate has been issued under regulation 32 shall forthwith deliver it to the office of a local national registration officer.” [158]

7.—(1) In paragraph (1) of regulation 37 of the principal regulations after the words “local national registration officer” there shall be inserted the words “and any member of His Majesty’s naval, military or air forces in uniform on duty.”

(2) In sub-paragraph (a) of paragraph (2) of the said regulation after the word “uniform” there shall be inserted the words “or by a member of His Majesty’s naval, military or air forces.” [159]

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## CENTRAL ELECTRICITY BOARD

*See* ELECTRICITY SUPPLY.

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## CHARITIES

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## STATUTES

### THE WAR CHARITIES ACT, 1940

(3 & 4 Geo. 6, c. 31)

#### PRELIMINARY NOTE

The War Charities Act, 1916 (2 Statutes 400), remained in force until repealed by the present Act. It, however, applied only to charities in connection with the war of 1914 to 1918. The new Act, which is in outline the same as that of 1916, not only covers the war of 1914 to 1918 and the present war against Germany and Italy, but can be extended by Order in Council to cover any past or future war or act of aggression. The main difference between this and the earlier Act is that the number of registration authorities is more limited, and the powers of the smaller non-county borough and urban district councils are now exercised by county councils. Provision is made for the extension of the objects of war charities established under the Act of 1916, and amendments are made to the House to House Collections Act, 1939, in relation to war charities.

Details as to the operation of this Act are contained in regulations made under s. 4 (S. R. & O., 1940, No. 1533, p. 78, *post*). [160]

## ARRANGEMENT OF SECTIONS

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*An Act to provide for the registration and control of war charities, and for the extension of the objects of certain war charities; and for purposes connected with the matters aforesaid. [161] [June 27, 1940.]*

**1. Prohibition against appeals for war charities unless registered or exempted.**—(1) It shall not be lawful to make any appeal to the public for donations or subscriptions in money or in kind to any war charity, or to raise or attempt to raise money for any such charity by promoting or assisting to promote any bazaar, sale, entertainment or exhibition, or by any similar means, unless—

(a) the charity is registered or exempted from registration under this Act; and

(b) approval in writing has been given by the management committee or person responsible for the administration of the charity, or a duly authorised officer of the charity;

and if any person contravenes the provisions of this subsection, he shall be guilty of an offence:

Provided that this subsection shall not apply to any collection at divine service in a place of public worship.

(2) A registration authority may exempt from registration under this Act any war charity if they are satisfied that the charity is established in good faith, and is of so limited a character as respects the area in which the activities of the charity are or will be carried on, or as respects the duration or the objects of the charity, or as respects the value of the money and property likely to be obtained, that it is unnecessary in the interests of the public that the charity should be registered; and the registration authority may exempt the charity for an indefinite or a limited period, and may, if they are no longer satisfied as to the matters aforesaid, withdraw the exemption.

The registration authority, on exempting a charity, shall furnish a certificate of exemption which shall, if the exemption is for a limited period, specify that period.

(3) Subsection (1) of this section, so far as it requires the war charity concerned to be registered or exempted from registration under this Act shall not apply to any war charity until the expiration of two

months after the passing of this Act, unless the registration authority within that period refuses to register the charity, nor to any war charity pending the decision of the registration authority on an application for the registration or exemption of the charity made within that period. [162]

"War charity" is defined in s. 11 (1), *post*. Any question whether a charity is a war charity is to be determined by the Charity Commissioners. A charity registered as a Trade Union is not thereby exempted from registration (*Barber v. Chudley* (1922), 92 L. J. K. B. 711; Digest Supp.).

"Place of public worship" is not defined. It clearly includes churches and chapels of the established church. It is not clear whether only registered nonconformist chapels are exempted, but compare the exemption from the Charitable Trusts Act, 1853 (see Places of Worship Registration Act, 1855, s. 9; 6 Statutes 1232), and the exemption from the payment of rates (Poor Rate Exemption Act, 1833; 14 Statutes 500), both of which only apply to places of worship registered under 15 & 16 Vict. c. 36, or the Places of Worship Registration Act, 1855.

An appeal from a refusal to register lies to the Charity Commissioners. There is no appeal from a refusal to exempt, but the Charity Commissioners can direct the registration authority to withdraw exemption.

**2. Registration of war charities.**—(1) Applications for registration or exemption from registration under this Act shall be in the prescribed form and shall be sent to the registration authority for the area in which the administrative centre of the charity is situate, and at least one week before sending an application for registration there shall be inserted in not less than two newspapers circulating in the said area a statement in the prescribed form of the intention to make such an application and of the time within which, and the place at which, objections to the applications may be made; and, subject to the following provisions of this section, the authority shall, after considering any such objections, grant any such application duly made in accordance with this Act and furnish a certificate of registration.

(2) No charity shall be registered under this Act unless the registration authority are satisfied that a responsible committee or other body (in this Act referred to as a "management committee"), consisting of not less than three persons, has been appointed to administer the charity, and a registration authority may refuse to register any charity, or may remove any charity from the register kept by them, if they are satisfied—

- (a) that the charity is not established, or is not being carried on, in good faith;
- (b) that the charity is not being or is not likely to be properly administered or, in the case of removal from the register, that the conditions specified in the next following section of this Act have not been complied with;
- (c) that the total value of the money and property likely to be applied towards the objects of the charity (including any money and property already so applied) is inadequate in proportion to the total value of the money and property likely to be obtained for those objects (including any money and property already so obtained);
- (d) that remuneration or reward which is excessive in relation to the total value of the money and property likely to be applied towards the objects of the charity is likely to be, or has been, retained or received by any person out of the money and property obtained for those objects;
- (e) that the authority have not been furnished with information reasonably required by them for the purpose of informing

themselves as to any of the matters specified in the foregoing provisions of this subsection.

(3) An appeal from a refusal by a registration authority to register any charity, or from the decision of a registration authority to remove any charity from the register, shall lie to the Charity Commissioners and, if as a result of the appeal the Charity Commissioners decide that the application for registration ought not to be refused or, as the case may be, that the charity ought not to be removed from the register, the registration authority shall register the charity or, as the case may be, restore the charity to the register.

(4) Where a war charity has been removed by the registration authority from the register, and either an appeal to the Charity Commissioners has been dismissed or no such appeal has been made and the time for making such an appeal has expired, the registration authority shall give notice of the removal of the charity in at least two newspapers circulating in their area.

(5) Every registration authority shall keep a register, containing such particulars as may be prescribed, of all the charities registered by them under this Act, and lists, containing such particulars as may be prescribed, of all charities the registration of which has been refused by them under this Act and of all charities which have been exempted by them from registration.

(6) Where the administrative centre of any registered war charity is transferred from the area of the registration authority by whom the charity is for the time being registered to another area, the authority shall, after giving notice in writing in the prescribed form to the management committee of the charity and to the registration authority for the area to which the administrative centre has been transferred and affording a reasonable opportunity for raising any question as to the situation of the administrative centre, transmit to the last named authority the particulars of registration of that charity, and that authority shall enter the particulars on the register kept by them and the charity shall thereafter be deemed to have been registered by them :

Provided that, if at the time of the transfer the registration authority from whose area the administrative centre of the war charity is transferred is engaged in an investigation of the affairs of the charity, the authority may postpone the transmission of the particulars of registration of the charity until the completion of the investigation.

(7) Every registration authority shall forthwith send to the Charity Commissioners a copy of all particulars entered in the register and lists kept by them under this section, and shall forthwith notify the Charity Commissioners of any changes in the register or lists.

(8) The Charity Commissioners shall keep a combined register of all charities registered under this Act, and a combined list of all charities in respect of which applications for registration under this Act have been refused, and a combined list of all charities which have been exempted from registration under this Act.

(9) Any question as to where the administrative centre of any charity is situate shall be finally determined by the Charity Commissioners. [163]

The registration authority may remove a charity from the register for the reasons specified in this section, subject to an appeal to the Charity Commissioners. Under s. 5, *post*, the Charity Commissioners may direct the registration authority to remove a charity from the register.

**3. Conditions to be complied with by registered charities.**—Charities registered under this Act shall comply with the following conditions :—

- (a) the charity shall be administered by a management committee consisting of not less than three persons, and minutes shall be kept of the meetings of the management committee in which shall be recorded the names of the members of the committee attending the meetings ;
- (b) proper books of account shall be kept, containing such particulars (including particulars of property acquired other than money), as may be prescribed, and the accounts shall be audited, either annually or at such more frequent intervals as the registration authority with the consent of the Charity Commissioners may require, by an independent person who possesses the prescribed qualifications or is on other grounds accepted by the registration authority as competent for the purpose, and copies of the accounts so audited shall be sent to the registration authority ;
- (c) all money received by the charity shall be paid into a separate account kept in the name of the charity at such bank or banks as may be specified in the particulars of the charity entered in the register ;
- (d) such particulars with regard to accounts and other records as the registration authority or the Charity Commissioners may require shall be furnished to the registration authority or the Charity Commissioners, and the books of account and other records of the charity and all documents relating thereto shall be open to inspection at any time by any person duly authorised by the registration authority or by the Charity Commissioners. [164]

**4. Regulations.**—(1) The Charity Commissioners may, subject to the approval of the Secretary of State, make regulations—

- (a) providing for the inspection of registers and lists kept under this Act, and the making and the furnishing and certification of copies thereof and extracts therefrom ;
- (b) prescribing the fee (not exceeding ten shillings) to be paid on registration, and the fees for making or obtaining copies of, and extracts from, registers and lists ;
- (c) requiring notification to the registration authority of any changes requiring alterations in the particulars entered in the register or any such list ;
- (d) requiring, on the withdrawal of the exemption or removal from the register of any war charity, the surrender of the certificate of exemption or registration, as the case may be ;
- (e) requiring appeals and advertisements made or issued by or on behalf of any war charity to state that the charity is registered under this Act ;
- (f) prescribing, in relation to any of the conditions specified in the last foregoing section of this Act, or any of the requirements of the regulations, the persons who are to be responsible for securing compliance therewith ;
- (g) prescribing the procedure for making appeals or representations or referring questions to the Charity Commissioners under this Act, and limiting the time within which such appeals may be made ;
- (h) generally for carrying this Act into effect ;

and in this Act the expression "prescribed" means prescribed by the regulations.

(2) If any person who under the regulations is responsible for securing compliance with any regulation or with any condition specified in the last foregoing section of this Act fails to do so, he shall be guilty of an offence. [165]

The War Charities Regulations, 1940 (S. R. & O., 1940, No. 1533), made under this section, are printed, p. 78, *post*.

#### 5. Powers of Charity Commissioners.—(1) If—

- (a) representations are made to the Charity Commissioners, as respects any war charity registered or exempted from registration under this Act, that grounds exist which would under the provisions of this Act justify the registration authority in removing the charity from the register or, as the case may be, in withdrawing the exemption; and
- (b) the Commissioners, after giving the registration authority and the management committee or person responsible for the administration of the charity a full opportunity of making representations, are satisfied that grounds exist as aforesaid;

the Commissioners may direct the registration authority to remove the charity from the register or, as the case may be, withdraw the exemption, and the registration authority shall comply with the direction and, in the case of a removal, forthwith give the notice required by subsection (4) of section two of this Act.

(2) Subject to the provisions of this section, where—

- (a) any war charity is removed from the register;
- (b) an application for the registration of any war charity is refused;
- (c) the Charity Commissioners are satisfied, as respects any war charity which is not for the time being registered or exempted from registration under this Act, that if an application for the registration of the charity were made, there would be grounds for refusing the application; or
- (d) the Charity Commissioners are satisfied that the objects of any war charity have failed altogether or have become obsolete or useless;

the Charity Commissioners may—

- (i) order any bank or other person who holds money or securities on behalf of the charity not to part with the money or securities without the authority of the Commissioners;
- (ii) order any money or securities held on behalf of the charity to be paid or transferred to the Official Trustees of Charitable Funds and for that purpose may make, without the necessity of any application being made to them for the purpose, any such order as they are authorised under section two of the Charitable Trusts Act, 1860, to make;
- (iii) establish a scheme for the regulation of the charity in accordance with their ordinary jurisdiction under the Charitable Trusts Acts, 1853 to 1939, as if the charity were a charity within the jurisdiction of the Commissioners under those Acts, but without the necessity of any application being made to them for the purpose.

(3) If any person fails to comply with any such order as is mentioned in paragraph (i) or paragraph (ii) of the last foregoing subsection, he shall be guilty of an offence.

(4) The Charity Commissioners may exercise their powers under subsection (2) of this section in the cases mentioned in paragraphs (a) and (b) thereof, notwithstanding that an appeal is pending, but shall not exercise their power of establishing such a scheme as aforesaid—

(a) in a case where an appeal is pending, until the appeal has been determined; or

(b) in the cases mentioned in paragraphs (c) and (d) of the said subsection, without giving the management committee or person responsible for the administration of the charity a full opportunity for making representations.

(5) The Charity Commissioners shall, for the purposes of their functions under this section and for the purposes of any appeal to them under this Act, have in relation to war charities all such powers with respect to requiring accounts, statements, written answers to inquiries, the attendance of persons for examination on oath or otherwise, the production of documents, the furnishing of copies and extracts from documents, the examination of registers and records, and the transmission of documents for examination, as are exercisable by them under the Charitable Trusts Acts, 1853 to 1939, in relation to charities within the jurisdiction of the Commissioners under those Acts, and those Acts shall apply accordingly. [166]

“War charity” is defined in s. 11 (1), *post*.

As to the indemnity afforded by an order of the Charity Commissioners directing money or securities to be paid or transferred to the official trustees of charitable funds, see Charitable Trusts Act, 1860, s. 23 (2 Statutes 370).

As to the official trustees of charitable funds, see Charitable Trusts Act, 1853, s. 51; Charitable Trusts Act, 1887, s. 4 (1); Charitable Trusts Act, 1925, s. 1 (2 Statutes 340, 383, 405).

**6. Extension of objects of war charity within the meaning of War Charities Act, 1916.**—The objects of any war charity within the meaning of the War Charities Act, 1916, may, with the consent of the Charity Commissioners, be extended so as to include any charitable object referred to in the definition in this Act of “war charity”, being an object similar to the original objects of the charity, and the funds of the charity may be applied to any object so included in like manner as to the original objects of the charity. [167]

For the definition of a war charity, see s. 11 (1), *post*. The definition of a war charity under the War Charities Act, 1916, is contained in s. 10 of that Act (2 Statutes 404). As a general rule the objects of a charity can only be altered by a scheme which cannot be established until after proof of failure of the existing trusts. This section simplifies the procedure and makes it possible for the funds of a war charity registered under the 1916 Act to be extended with the consent of the Charity Commissioners to similar objects in connection with other wars.

The section applies to the Royal Patriotic Fund Corporation and to war charities administered by a government department (s. 11 (3), *post*).

**7. Amendment of House to House Collections Act, 1939, in relation to war charities.**—(1) A police authority may refuse to grant a licence authorising a person to promote a collection as defined by the House to House Collections Act, 1939, if the authority is satisfied that the collection is for a war charity which is not for the time being registered or exempted from registration under this Act.

(2) If the chief officer of police for the police area comprising a locality in which any such collection is being or is proposed to be made,

is satisfied that it is on behalf of a war charity for the time being exempted from registration under this Act, he may grant to the person who appears to him to be principally concerned in the promotion of the collection a certificate to that effect, and any such certificate shall have the like effect as a certificate granted under subsection (4) of section one of the House to House Collections Act, 1939. [168]

For the requirements of the House to House Collections Act, 1939, as to the licensing of collections, see 32 Statutes 110. A war charity not registered or exempted is added to the cases in which a police authority may refuse a licence under s. 2 (3) of the 1939 Act. Where a war charity is exempted sub-s. (2) of the present section applies; where a war charity is registered the ordinary provisions of the House to House Collections Act, 1939, apply.

**8. False statements.**—If any person—

- (a) in any application for registration or exemption from registration under this Act, or in any notification of any change requiring alterations in the particulars entered in any register or list kept under this Act, makes any false statement or false representation;
- (b) falsely represents himself to be an officer or agent of a war charity;

he shall be guilty of an offence. [169]

**9. Penalties for offences.**—(1) Any person guilty of an offence under section four of this Act shall be liable on summary conviction to a fine not exceeding five pounds.

(2) Any person guilty of any other offence under this Act shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

(3) No proceedings for an offence to which the last foregoing subsection applies shall be instituted except by or with the consent of the Charity Commissioners. [170]

**10. Registration authorities.**—(1) For the purposes of this Act, the registration authority shall—

- (a) as respects the City of London, be the Common Council of the City of London;
- (b) as respects any county borough, or any non-county borough or urban district which has according to the last published census for the time being a population of fifteen thousand or upwards, be the council of the borough or urban district;
- (c) as respects the Isles of Scilly, be the council of the Isles of Scilly;
- (d) elsewhere, be the council of the county.

(2) The Common Council of the City of London may act through a committee of the council, which may, if the council think fit, comprise persons who are not members of the council.

(3) Regulations made under section four of this Act shall—

- (a) provide that, subject to such conditions (other than a condition requiring the payment of any fee for registration) as may be prescribed, any war charity registered at the passing of this Act under the War Charities Act, 1916, shall be deemed to be registered under this Act by the registration authority for that charity;

- (b) provide for the transfer of registers and other records kept under the War Charities Act, 1916, by authorities who are not registration authorities under this Act to the appropriate registration authorities under this Act ;
- (c) provide for such consequential and incidental matters as may be necessary. [171]

Under the War Charities Act, 1916, s. 2 (2 Statutes 401), all non-county borough and urban district councils were registration authorities. If this provision had been repeated there would have been 1,029 registration authorities, but the evidence given before the Departmental Committee on the Supervision of Charity, whose report was published in 1927, indicated that many smaller authorities were inactive. On the other hand, to confine registration authorities to county and county borough councils (of which there are 147) would have caused many local charities to be dealt with by county councils not in touch with local conditions. The present compromise of making the larger county districts into registration authorities meets this criticism to some extent, but confines the number of registration authorities to 484.

**11. Definition of war charity.**—(1) In this Act the expression “war charity” means any fund, institution, association or undertaking, whether established before or after the passing of this Act, having for its sole or principal object or among its principal objects the relief of suffering or distress caused, or the supply of needs or comforts to persons affected, by—

- (a) any war in which His Majesty was engaged during the years nineteen hundred and fourteen to nineteen hundred and eighteen ;
  - (b) any war in which His Majesty is engaged at the passing of this Act ; and
  - (c) any war or act of aggression, whether occurring before or after the passing of this Act, to which His Majesty by Order in Council declares this Act to be applicable ;
- and any other charitable object connected with any such war or act of aggression :

Provided that—

- (i) the said expression does not include any charity for the blind within the meaning of section three of the Blind Persons Act, 1920 ;
  - (ii) in relation to any charity which becomes a war charity by virtue of an Order in Council made under paragraph (c) hereof, subsection (3) of section one of this Act shall have effect as if for the reference to the passing of this Act there were substituted a reference to the date of the Order.
- (2) Any question whether a charity is a war charity shall be finally determined by the Charity Commissioners.
- (3) The provisions of this Act, except in so far as they provide for the extension of the objects of certain war charities and make it an offence for any person—

- (a) to make an appeal or raise or attempt to raise money for any war charity, without the approval in writing of the management committee or person responsible for the administration of the charity, or a duly authorised officer of the charity.
- (b) falsely to represent himself to be an officer or agent of a war charity ;

shall not apply to the Royal Patriotic Fund Corporation or to any war charity administered by a government department. [172]

The War Charities Act, 1916 (which is repealed), applied to charities connected with the war of 1914 to 1918 only. The present Act not only applies to charities

connected with that war and with the present war against Germany and Italy, but can be extended by Order in Council to any past or future war or act of aggression. It can therefore be applied to wars or acts of aggression not resulting in war in which this country is not involved, *e.g.*, it could be applied to a charity for the relief of suffering caused by the war between Japan and China, or by the German annexation of Czechoslovakia.

Charities for the blind within the meaning of s. 3 of the Blind Persons Act, 1920 (20 Statutes 595), are still subject to the provisions of the War Charities Act, 1916, as applied by that section (see s. 14 (3), proviso (a)).

## 12. Application to Scotland. [173]

## 13. Provision as to Northern Ireland. [174]

14. Short title, extent and repeal.—(1) This Act may be cited as the War Charities Act, 1940.

(2) This Act, except the provisions of the last foregoing section, shall not extend to Northern Ireland.

(3) The War Charities Act, 1916, and the War Charities (Scotland) Act, 1919, are hereby repealed :

Provided that—

(a) this repeal shall not affect the operation of the War Charities Act, 1916, as applied by section three of the Blind Persons Act, 1920 ; and

(b) without prejudice to any provision of the Interpretation Act, 1889, this repeal shall not affect the validity of any orders or schemes made under either of the said repealed Acts and in force at the passing of this Act, and in so far as any such orders or schemes could have been made under this Act, they shall be deemed to have been so made and this Act shall have effect accordingly. [175]

# ORDERS, CIRCULARS AND MEMORANDA

## WAR CHARITIES REGULATIONS, 1940

*S. R. & O.*, 1940, No. 1533

*August 15, 1940*

The Charity Commissioners for England and Wales by virtue of the powers conferred on them by section 4 of the War Charities Act, 1940, and with the approval of the Secretary of State as hereafter signified, do hereby make the following Regulations :—

1.—(1) These Regulations may be cited as the War Charities Regulations, 1940, and shall come into force on the date on which they are approved by the Secretary of State.

(2) These Regulations shall not extend to Scotland. [176]

2. In these Regulations, unless the contrary intention appears :—

(a) the expression “ the Commissioners ” means the Charity Commissioners for England and Wales ;

(b) the expression “ the Act ” means the War Charities Act, 1940, and the expression “ the Act of 1916 ” means the War Charities Act, 1916 ;

- (c) the expressions " the Register " and " the Lists " mean respectively the Register and the Lists kept by a Registration Authority under the Act ;
- (d) the expression " Committee " means the Committee or other body or person responsible for the administration of a War Charity ;
- (e) the expression " the appropriate Registration Authority " in relation to any particular War Charity or Charity registered under the Act of 1916 means the Registration Authority for the area in which the administrative centre of that Charity is situate. [177]

3. Every application to a Registration Authority for registration or exemption under the Act of a War Charity shall be made in the forms set forth in the First and Second Schedules respectively to these Regulations and shall be signed by some person or persons duly authorised on behalf of the Charity. If the application is for registration a fee of 5s. shall be paid to the Registration Authority when the application is made, such fee to be returned in the event of the application for registration being refused. [178]

4. Before any application is made for registration a statement in the form set forth in the Third Schedule to these Regulations shall be published by the Committee in not less than two newspapers circulating in the area in which the administrative centre of the Charity is situate giving notice of the intention to apply for registration. Every such statement shall be published not less than one week before the application for registration is made and shall specify that any objections to the proposed application shall be sent in writing to the Registration Authority within 14 days from the date of the statement. A copy of the newspapers containing the statement shall be supplied to the Registration Authority when the application for registration is made. [179]

5. The Registration Authority before deciding whether or not the application for registration shall be granted, may allow a further period (not exceeding fourteen days from the expiration of the period required to be specified in the published notice) for the production of evidence in support of any objections. [180]

6. The Certificate of registration or exemption to be furnished by the Registration Authority shall be issued to the Committee in the forms respectively set forth in the Fourth and Fifth Schedules to these Regulations. [181]

7. The Register shall contain the following particulars in respect of every Charity registered under the Act :—

- (a) the name of the Charity ;
- (b) the date of establishment ;
- (c) the precise objects ;
- (d) the address of the administrative centre ;
- (e) the full names, address and occupation or description of the Secretary ;
- (f) the full names, address, and occupation or description of the Treasurer ;
- (g) the full names, addresses, and occupations or descriptions of the Chairman and two other members of the Committee ;

- (h) the name and address of the bank or banks at which the account of the Charity is kept ;
- (i) the name, address and qualification or other description of the Auditor ;
- (j) the date of application for registration ;
- (k) the date of registration ; and
- (l) (if a Charity be removed from the Register) the date of removal.

[182]

8. Every account at a Bank of a Charity registered under the Act shall be kept in the registered name of the Charity. [183]

9. The Auditor shall be an independent person who is a member of an association or society of accountants incorporated at the date on which these Regulations come into force or is on other grounds accepted by the Registration Authority as competent for the purpose. No person shall be deemed to be independent if he is related to or associated in business with any member of the Committee or other officer of the Charity. [184]

10. A duplicate of the entries relating to each Charity registered under the Act shall be entered by the Registration Authority on a separate Register Sheet and such Sheet shall forthwith be sent to the Commissioners. [185]

11. Subject to the following conditions any War Charity registered at the passing of the Act under the Act of 1916 shall be deemed to be registered under the Act by the appropriate Registration Authority :—

(1) If the Registration Authority under the Act of 1916 are the appropriate Registration Authority they shall transcribe into the Register the existing particulars of registration amended so far as may be required and shall send a fresh duplicate Register Sheet to the Commissioners. They shall at the same time enter a note in the Register kept by them under the Act of 1916 recording that the Charity has been so registered by them under the Act and send a notification thereof to the Commissioners.

(2) If the Registration Authority under the Act of 1916 are not the appropriate Registration Authority they shall give notice to the appropriate Registration Authority and the Committee in the form set forth in the Sixth Schedule to these Regulations and after the expiration of the period specified in the notice and the settlement of any question raised within that period as to the situation of the administrative centre they shall transmit to the appropriate Registration Authority the existing particulars of registration of the Charity and shall enter a note accordingly in the Register kept by them under the Act of 1916 and send a notification thereof to the Commissioners. The appropriate Registration Authority shall enter the particulars on the Register together with such amendments thereof as may be required and shall send a fresh duplicate Register Sheet to the Commissioners and shall at the same time inform the Registration Authority under the Act of 1916 that the Charity has been so registered by them under the Act.

(3) Upon the registration of the Charity under the Act and this Regulation

- (a) the appropriate Registration Authority shall issue to the Committee a Certificate of Registration and no fee in respect of such registration or Certificate shall be payable ;

- (b) if the Registration Authority under the Act of 1916 are not the appropriate Registration Authority they shall forthwith deliver to the appropriate Registration Authority all books papers accounts and other records in their possession relating exclusively to the Charity, and shall enter a note accordingly in the Register kept by them under the Act of 1916. [186]

12. The Lists of Charities refused registration and the Lists of Charities exempted from registration shall contain the following particulars in respect of every Charity so refused registration or exempted from registration :—

- (a) the name of the Charity ;
- (b) the date of establishment ;
- (c) the precise objects ;
- (d) the address of the administrative centre ;
- (e) the full names, address and occupation or description of each person applying on behalf of the Charity for registration or exemption ;
- (f) the name and address of the bank or banks at which the account of the Charity is kept ;
- (g) the considerations which have led the Authority to refuse registration or to exempt the Charity from registration ; and
- (h) the date of refusal or exemption. [187]

13. A duplicate of the entries relating to each Charity refused registration or exempted from registration shall be entered by the Registration Authority on a separate List Sheet and such Sheet shall forthwith be sent to the Commissioners. [188]

14. A War Charity exempted at the passing of the Act from registration under the Act of 1916, shall not be deemed to be exempted from registration under the Act and shall not be exempt unless and until exemption has been granted by the appropriate Registration Authority in the manner provided in these Regulations. [189]

15. Any changes occurring from time to time in the particulars required to be entered in the Register or any List in relation to any particular Charity shall be communicated by the Committee forthwith to the Registration Authority who shall make the necessary alteration in the Register or such List and shall forthwith notify the same to the Commissioners. [190]

16. In the event of a change being made in the name of a Charity which has been registered or exempted from registration under the Act the Committee shall forthwith produce to the Registration Authority the Certificate of Registration or the Certificate of Exemption as the case may be together with a certified extract from the minutes of the Committee or other evidence that the change has been duly authorised, and the Registration Authority shall insert therein the new name of the Charity and return the Certificate to the Committee. [191]

17. In the event of a change in the Administrative Centre of a Charity registered under the Act making necessary a transfer from one Registration Authority to another under subsection 6 of section 2 of the Act notice shall be given to the Committee and to the appropriate Registration Authority by the Registration Authority by whom the Charity is for the time being registered in the form set forth in the Sixth

Schedule to these Regulations and upon the expiration of the period specified in the Notice the transfer shall be carried out and paragraphs (2) and 3 (b) of Regulation 11 of these Regulations shall apply *mutatus mutandis* as if the Registration Authority making such transfer were a Registration Authority under the Act of 1916; Provided that if the Registration Authority by whom the Charity is for the time being registered are engaged in an investigation of the affairs of the Charity the transmission of the particulars of registration may be postponed as provided in the above-mentioned subsection. [192]

18. The Register and Lists shall at all reasonable times be open to the inspection of all persons interested free of charge, and such persons may on payment of a fee of 3*d.* make copies of or extracts from any entry in the Register or Lists relating to a specific Charity. Copies of or extracts from any such entry in the Register or Lists shall be supplied to any such person on payment of a fee at the rate of 4*d.* per folio of 72 words for each copy or extract. Such last-mentioned copies or extracts shall be certified by the signature of the Clerk to the Registration Authority or of some person authorised to act on his behalf when the copies or extracts are obtained from the Authority, and by the signature of the Secretary to the Commissioners or some person authorised on his behalf if the copies or extracts are obtained from the Commissioners. [193]

19. Upon the decision of a Registration Authority to refuse to register a Charity or to remove a Charity from the Register or to refuse or withdraw exemption of a Charity from registration, the Registration Authority shall forthwith notify such decision to the Committee of the Charity and in the case of removal from the Register or withdrawal of exemption the Registration Authority shall forthwith furnish to the Commissioners full particulars of the reasons for such removal or withdrawal and all information in their possession as to the funds and securities of the Charity and the persons holding them. [194]

20. Within fourteen days after the receipt of notification of the decision of a Registration Authority to remove a Charity from the Register or to withdraw the exemption of a Charity from registration the Committee shall surrender to the Registration Authority the Certificate of Registration or Certificate of Exemption as the case may be. Where exemption from registration has been granted for a limited period the Committee shall surrender in like manner the Certificate of Exemption forthwith after the expiration of the period for which such exemption was granted. If as a result of an appeal to the Commissioners a Charity is restored to the Register the Registration Authority shall forthwith return the Certificate of Registration to the Committee. [195]

21. The notification of the decision of a Registration Authority to refuse to register a Charity or to remove a Charity from the Register shall include statements showing upon which of the grounds specified in subsection (2) of section 2 of the Act the decision has been taken. [196]

22. An appeal from the refusal of a Registration Authority to register a Charity or from the decision of a Registration Authority to remove a Charity from the Register shall be made to the Commissioners in writing within fourteen days from the date of the intimation of the

refusal or decision or within such further time as may be allowed by the Commissioners, and shall be accompanied by a statement giving the reasons for the appeal. [197]

23. The appellants shall at the same time give notice of the appeal to the Registration Authority and in the case of refusal to register the Authority shall forthwith communicate to the Commissioners full particulars of the reasons for their decision. [198]

24. Any such appeal may be determined by the Commissioners if both the appellants and the Registration Authority concur, on an agreed statement of facts submitted to them in writing and without the attendance before them of the appellants or the Registration Authority in person or by their representatives. In default of such agreement the appellants and the Registration Authority shall supply to the Commissioners summaries of the evidence which they respectively desire to adduce and upon being informed of the day, time and place appointed by the Commissioners for hearing the appeal the appellants and the Registration Authority or some person or persons representing them respectively shall attend and adduce evidence as may be required for determination of the questions arising on the appeal. [199]

25. Duly audited accounts of every War Charity registered under the Act shall be sent to the Registration Authority at least once in every period of twelve months; but the Registration Authority with the consent of the Commissioners or the Commissioners may call for such accounts at any time. Such accounts shall include particulars of receipts and expenditure of money only, but with a view to meeting the requirements of section 3 (b) of the Act every registered Charity shall keep a sufficient record of all dealings with articles in kind of whatever nature. [200]

26. If any bazaar, sale, entertainment or exhibition is promoted to raise money for a War Charity registered under the Act, the approval required by section 1 of the Act shall not be given save on condition that an account of all receipts and expenditure in connection with the bazaar, sale, entertainment or exhibition shall be rendered to the Committee. [201]

27. Where any appeal is made to the public for donations or subscriptions in money or in kind to any War Charity registered under the Act or any attempt is made to raise money for any such Charity by promoting any bazaar, sale, entertainment or exhibition, or by any similar means, the name of the Charity as appearing in the Certificate of Registration shall be stated in full in all posters, bills, circulars, advertisements and notices relating to such appeal or attempt to raise money with the addition of the words "Registered under the War Charities Act, 1940". [202]

28. Every person who is for the time being a member of the Committee of a War Charity registered under the Act shall be responsible in respect of that Charity for securing compliance with the conditions specified in section 3 of the Act and the requirements of these Regulations: Provided that if and so long as the Committee have delegated in writing the duty of securing compliance with any such condition or requirement to some officer of the Charity, being the Secretary, Treasurer or other responsible officer of the Charity and the delegation has been

accepted in writing by such officer and notice of such delegation and of its acceptance has been given to the appropriate Registration Authority such officer alone shall be responsible for securing compliance therewith. [203]

29. Any representation or reference of a question to the Commissioners under sections 2 (6) and (9) and 5 (1) (2) and (4) of the Act shall be made to them in writing and shall include or be accompanied by a statement giving the reasons for such representation or reference and any facts relied upon in support thereof. [204]

30. Any application to the Commissioners under section 11 (2) of the Act to determine the question whether a Charity is a War Charity within the meaning of the Act may be made to them by or on behalf of any Registration Authority concerned or any Police Authority or the Commissioner of Police of the Metropolis or the Committee of the Charity and shall be made in the form set forth in the Seventh Schedule to these Regulations and shall be signed by some person or persons duly authorised on behalf of the Authority or Charity and shall be accompanied by full information as to the objects and constitution of the Charity. [205]

\* \* \* \* \*

## FIRST SCHEDULE

F.1.

### FORM OF APPLICATION FOR REGISTRATION

#### WAR CHARITIES ACT, 1940

#### *Application for Registration*

(I) (We) the undersigned being (a person) (persons) duly authorised on behalf of the Charity called <sup>1</sup>

hereby apply to have the said Charity registered under the above-mentioned Act.

The following are particulars of the Charity :—

- (1) The date of establishment.
- (2) The precise objects.
- (3) The address of the Administrative Centre.
- (4) The full names, address and occupation or description of the Secretary.
- (5) The full names, address and occupation or description of the Treasurer.
- (6) The full names, addresses and occupations or descriptions of the Chairman and two members of the Committee.
- (7) The name and address of the Bank or Banks at which the account of the Charity is kept.
- (8) The name, address and qualification or other description of the Auditor of the accounts.

(I) (We) hereby declare that the above particulars are correct in every respect and that the Auditor is not related to or associated in business with any member of the Committee or other officer of the Charity.

Signature .....

Address .....

Signature .....

Address .....

Signature .....

Address .....

Date .....

<sup>1</sup> Insert Name of Charity.

NOTE.—(1) The foregoing particulars are required by the Regulations made by the Charity Commissioners under the Act, and it is an offence against the Act to make any false statement in an application for registration.

NOTE.—(2) This application should be sent to the Registration Authority for the area in which the Administrative Centre of the Charity is situate and should be accompanied by the prescribed registration fee of 5s. and copies of the newspapers containing the published notice required under s. 2 (1) of the Act and Regulation 3 of the said Regulations. [206]

## SECOND SCHEDULE

F.2.

### FORM OF APPLICATION FOR EXEMPTION

#### WAR CHARITIES ACT, 1940

##### *Application for Exemption*

(I) (We) the undersigned being (a person) (persons) duly authorised on behalf of the Charity called <sup>1</sup>

hereby apply to have the said Charity exempted from registration under the above-mentioned Act.

The following are particulars of the Charity :—

- (1) The date of establishment.
- (2) The precise objects.
- (3) The address of the Administrative Centre.
- (4) The full names, address and occupation or description of the Secretary.
- (5) The full names, address and occupation or description of the Treasurer.
- (6) The area within which and the period of time during which appeals for subscriptions are or will be made.
- (7) An approximate estimate of the maximum amount expected to be raised by such appeals.
- (8) The reasons for claiming that the Charity should be exempted as desired.

(I) (We) hereby declare that the above particulars are correct in every respect.

Signature .....  
 Address .....  
 Signature .....  
 Address .....  
 Signature .....  
 Address .....  
 Date .....

NOTE.—(1) The foregoing particulars are required by the Regulations made by the Charity Commissioners under the Act, and it is an offence against the Act to make any false statement in an application for exemption.

NOTE.—(2) By s. 1 (2) of the Act it is provided that a Charity can be exempted from registration under the Act if the Registration Authority are satisfied (a) that the Charity is established in good faith and (b) that it is of so limited a character as respects the area in which its activities are or will be carried on or as respects its duration or objects or as respects the value of the money and property likely to be obtained that it is unnecessary in the interests of the public that the Charity should be registered. A Charity may be exempted for an indefinite or a limited period and exemption may be subsequently withdrawn.

NOTE.—(3) This application should be sent to the Registration Authority for the area in which the Administrative Centre of the Charity is situate. [207]

<sup>1</sup> Insert Name of Charity.

## THIRD SCHEDULE

F.3.

FORM OF STATEMENT TO BE INSERTED IN NEWSPAPERS OF INTENTION TO  
APPLY FOR REGISTRATION*War Charities Act, 1940*

Notice is hereby given that it is proposed to apply to the <sup>1</sup>  
Council for the registration under the above-mentioned Act of <sup>2</sup>  
the objects of which are shortly as follows :— <sup>3</sup>

and the administrative centre of which is situate at <sup>4</sup>

Any objections to the proposed registration should be sent in writing to  
the above-named Council within 14 days from the date of this notice.

Dated <sup>5</sup>

19 .

NOTE.—This Notice is required by s. 2 (1) of the Act to be inserted at  
least one week before the application for registration is made in not less  
than two newspapers circulating in the area in which the administrative  
centre of the Charity is situate. [208]

<sup>1</sup> Insert Name of Council.<sup>2</sup> Insert Name of Charity.<sup>3</sup> Insert short description of objects.<sup>4</sup> Insert address.

<sup>5</sup> This date should be as nearly as possible the date on which this notice is first  
published in a newspaper.

## FOURTH SCHEDULE

F.4.

## FORM OF CERTIFICATE OF REGISTRATION

*War Charities Act, 1940*

IT IS HEREBY CERTIFIED that the Charity called

was on the

day of

19

REGISTERED by the

Council under the above-mentioned Act.

Signed .....

for and on behalf of the above-  
named Council. [209]

## FIFTH SCHEDULE

F.5.

## FORM OF CERTIFICATE OF EXEMPTION

*War Charities Act, 1940*

IT IS HEREBY CERTIFIED that the Charity called

was on the

day of

19

EXEMPTED by the

Council from registration under the above-mentioned

Act [until the <sup>1</sup>

day of

19

.]

Signed .....

for and on behalf of the above-  
named Council. [210]

<sup>1</sup> Delete if not required.

## SIXTH SCHEDULE

F.6.

FORM OF NOTICE ON A TRANSFER OF REGISTERS AND OTHER RECORDS BY ONE  
REGISTRATION AUTHORITY TO ANOTHER.

*War Charities Act, 1940*

To the Committee of <sup>1</sup>

To the Clerk of the <sup>2</sup>

Council.

Notice is hereby given that the Administrative Centre of the <sup>3</sup>  
[being situate at <sup>4</sup>  
(having been removed on the <sup>5</sup>  
<sup>6</sup> to <sup>7</sup> from

) the <sup>8</sup> Council  
propose at the expiration of 14 days from this date to transmit to the  
Council the particulars of registration of the said  
Charity and all books, papers, accounts and other records relating exclusively  
thereto.

Signed .....  
for and on behalf of the above-  
named Council.

This notice is given pursuant to [s. 10 (2)] (s. 2 (6)) of the above-mentioned  
Act. [211]

<sup>1</sup> Insert name of Charity.

<sup>2</sup> Insert name of new Registration Authority.

<sup>3</sup> Insert name of Charity.

<sup>4</sup> Delete whichever is not required.

<sup>5</sup> Insert name of existing Registration Authority.

<sup>6</sup> Insert name of new Registration Authority.

<sup>7</sup> Insert name of Clerk and name of existing Registration Authority.

<sup>8</sup> Delete whichever is not required.

## SEVENTH SCHEDULE

F.7.

APPLICATION FOR DECISION WHETHER A CHARITY IS A WAR CHARITY.

*To the Charity Commissioners for England and Wales*

*In the Matter of the War Charities Act, 1940*

(I being a person duly authorised on behalf of the <sup>1</sup> )

((I) (We) the undersigned being (a person) (persons) duly authorised on  
behalf of the Charity) hereby apply to the Charity Commissioners for England  
and Wales to determine the question whether the <sup>2</sup>

is a War Charity within the meaning of the  
above-mentioned Act.

The following are particulars of the Charity :—

(1) The date of establishment.

(2) The precise objects.

(3) The address of the Administrative Centre.

(4) The Charity affords relief in connection with War or acts of  
aggression in the manner and to the extent set out below :—

(I) (We) hereby declare that the above particulars are correct in every  
respect.

Signature .....

Address .....

Signature .....

Address .....

Signature .....

Address .....

Date .....

<sup>1</sup> Insert name of Authority and delete whichever is not required.

<sup>2</sup> Insert name of Charity.

NOTE.—(1) These particulars are required by the Regulations made by the Charity Commissioners under the Act.

NOTE.—(2) Under s. 11 of the Act the expression “ War Charity ” means any fund, institution, association or undertaking, whether established before or after the passing of the Act, having for its sole or principal object or among its principal objects the relief of suffering or distress caused, or the supply of needs or comforts to persons affected, by

- (a) Any War in which His Majesty was engaged during the years 1914 to 1918,
- (b) Any War in which His Majesty was engaged at the passing of the Act, and
- (c) Any War or act of aggression, whether occurring before or after the passing of the Act, to which His Majesty by Order in Council has declared the Act to be applicable,

and any other charitable object connected with any such War or act of aggression. The expression does not, however, include any Charity for the blind within the meaning of s. 3 of the Blind Persons Act, 1920. [212]

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## COMPENSATION AND TOWN PLANNING

*See TOWN AND COUNTRY PLANNING.*

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## CREMATION

*See BURIAL AND CREMATION.*

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## DERATING

*See RATES AND RATING.*

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# DESTRUCTIVE INSECTS AND PESTS DISEASES

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## ORDERS, CIRCULARS AND MEMORANDA

### NARCISSUS PESTS (ISLE OF ELY) ORDER OF 1940

*S. R. & O.*, 1940, No. 102

*January 19, 1940*

D.I.P. 606.

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Destructive Insects and Pests Acts, 1877 to 1927, and of every other power enabling him in this behalf, orders as follows :—

#### *Powers of Entry.*

1. An Officer of the Local Authority (hereinafter called "the appointed Officer"), upon production if so required of his appointment may, for the purpose of enforcing this Order, at all reasonable times enter upon any premises in the district and examine any narcissus plants or bulbs thereon and the occupier of the premises shall give to him all reasonable facilities for carrying out the examination. [213]

#### *Power to require Treatment of affected Plants and Bulbs.*

2.—(1) Where on any premises in the district any narcissus plants or bulbs are found by the appointed Officer to be so infested with any of the pests known as Narcissus Flies (*Merodon equestris* F., *Eumerus strigatus* Fall. and *Eumerus tuberculatus* Rond.) or eelworm (*Anguillulina dipsaci* Kuhn.) or Bulb Scale Mite (*Tarsonemus approximatus* Banks, var. *Narciissi* Ewing) that any such pest is likely to spread to other premises in the district he shall, if so directed by the Local Authority, by Notice served on the occupier of the premises require such plants or bulbs as he may determine to be treated in such manner as may be prescribed in the Notice, and for the purpose of such treatment he may require the growing plants and bulbs to be lifted.

(2) A Notice under this Article may prescribe the time within which the adoption of any measure thereby prescribed shall be completed.

(3) Nothing in this Order shall prevent an occupier of premise upon whom a Notice has been served under this Article, completely destroying by fire any plants or bulbs in respect of which a Notice has been served on him and if he does so destroy them he shall be deemed to have complied with the Notice.

(4) When a Notice has been served under this Article, the appointed Officer shall ascertain whether the Notice has been complied with. [214]

*Disposal of Affected Bulbs.*

3. No person shall remove from any premises in the district narcissus bulbs infested with any of the pests mentioned in Article 2 of this Order except under and in accordance with the conditions of a licence issued by the appointed Officer and such licence may prescribe that the bulbs shall be treated in such manner as the appointed Officer may determine ; provided that nothing in this Order shall prevent the owner of bulbs, so infested, from destroying them by fire. [215]

*Reports and Copies of Notices to be sent to the Ministry.*

4. The Local Authority shall furnish to the Ministry of Agriculture and Fisheries a report of any action taken by it under this Order, together with a copy of any Notice served under Article 2 hereof. [216]

*Service of Notices.*

5. For the purposes of this Order a Notice shall be deemed to be served on any person if it is delivered to him personally or left for him at his last known place of abode or business, or sent through the post in a letter addressed to him there, and a Notice purporting to be signed by the appointed Officer shall be *prima facie* evidence that it was signed by him as the appointed Officer. [217]

*Appointment of Officers.*

6. The Local Authority may appoint such persons as the Local Authority may deem desirable to be appointed Officers for the execution of this Order. [218]

*Penalties.*

7. Every person shall be liable on conviction to a penalty not exceeding ten pounds, or in respect of a second or subsequent offence to a penalty not exceeding fifty pounds, who wilfully obstructs or impedes an appointed Officer in the exercise of his powers under this Order or who does any act in contravention of this Order or of the terms or conditions of any Notice or licence served or issued thereunder, or fails to do any act which he is required to do by this Order or any such Notice or licence. [219]

*Definitions.*

8. "The District" means the Administrative County of the Isle of Ely.

"Local Authority" means the Local Authority for the District.

"Narcissus plants and bulbs" includes Daffodil plants and bulbs.

[220]

*Enforcement of Order.*

9. The provisions of this Order shall be enforced by the Local Authority. [221]

*Notification of Order.*

10. This Order shall be published by the Local Authority in accordance with any directions given by the Minister. [222]

*Short Title.*

11. This Order may be cited as the Narcissus Pests (Isle of Ely) Order of 1940. [223]

*Commencement of Order.*

12. This Order shall come into operation on the fifth day of February, Nineteen hundred and forty. [224]

\* \* \* \* \*

## IMPORTATION OF PLANTS (AMENDMENT) ORDER OF 1940

*S. R. & O., 1940, No. 544*

*April 10, 1940*

D.I.P. 607.

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Destructive Insects and Pests Acts, 1877 to 1927, and of every other power enabling him in this behalf, orders as follows :—

*Modification of the Importation of Plants Order of 1939.*

1. The Importation of Plants Order of 1939 (hereinafter referred to as "the principal Order") is hereby modified in the manner provided by this Order. [225]

*Application to Spain of Articles 5, 6 and 7 of the principal Order and of the Third Schedule thereto.*

2. Article 5 (5), Article 6 (1) and (3), Article 7 (1) and (3) of the principal Order and Form A in the Third Schedule thereto shall be read and have effect as if in addition to the countries specifically mentioned Spain were mentioned therein; and in respect of any plants potatoes raw vegetables and cider apples grown in Spain any certificate required by any of the said Articles shall be a certificate of a duly authorised Official of the Spanish Phytopathological Service. [226]

*Amendment of Article 6 of the principal Order.*

3. For Article 6 (2) of the principal Order shall be substituted :—

"(2) The landing in England or Wales between the twenty-first day of April and the thirtieth day of September in any year of any raw vegetables grown in Belgium, Germany, Luxemburg, or the Netherlands is hereby prohibited unless in the case of a consignment landed between the twenty-first day of April and the thirty-first day of May in any year each consignment is accompanied by a certificate of origin visé by a competent authority in the country of origin stating the country and place where the raw vegetables were grown; and in the case of a consignment landed between the first day of June and the thirtieth day of September in any year each consignment is accompanied by a certificate of a duly authorised Official of the Belgian, German, Luxemburg or Dutch Phytopathological Service (as the case may be) in the Form A or the Form B set out in the Third Schedule to this Order." [227]

*Commencement.*

4. This Order shall come into operation on the twenty-first day of April, nineteen hundred and forty. [228]

*Short Title and Construction.*

5. This Order may be cited as the Importation of Plants (Amendment) Order of 1940 and shall be read as one with the principal Order, and the principal Order and this Order may be cited together as the Importation of Plants Orders of 1939 and 1940. [229]

\* \* \* \* \*

## IMPORTATION OF RAW CHERRIES ORDER OF 1940

*S. R. & O.*, 1940, No. 648

May 3, 1940

D.I.P. 608.

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Destructive Insects and Pests Acts, 1877 to 1927, and of every other power enabling him in this behalf, orders as follows :—

*Restriction on Importation of Raw Cherries.*

1. For the prevention of the introduction of the Cherry Fruit Fly, the landing in England or Wales after the eighteenth day of May, nineteen hundred and forty, of any raw cherries grown in any European country other than Spain, France, Italy and Hungary is hereby prohibited unless each consignment is accompanied by a certificate of origin visé by a competent authority in the country of origin, stating the country and place where the raw cherries were grown. [230]

*Restriction on Importation of Raw Cherries grown in Spain.*

2. Raw Cherries grown in Spain shall not be landed in England or Wales after the eighteenth day of May, nineteen hundred and forty. [231]

*Restriction on Importation of Raw Cherries grown in France.*

3. Raw Cherries grown in France shall not be landed in England or Wales—

- (a) during the period beginning on the nineteenth day of May, nineteen hundred and forty, and ending on the twenty-seventh day of May, nineteen hundred and forty, unless each consignment is accompanied by the certificate of origin prescribed in Article I of this Order ;
- (b) after the twenty-seventh day of May, nineteen hundred and forty, unless accompanied by a certificate issued by an officer of the French Services d'Inspection Phytopathologique in the Form A set forth in the Schedule to this Order. [232]

*Restriction on Importation of Raw Cherries grown in Italy.*

4. Raw Cherries grown in Italy shall not be landed in England or Wales—

- (a) during the period beginning on the nineteenth day of May, nineteen hundred and forty, and ending on the twelfth day of June, nineteen hundred and forty, unless each consignment is accompanied by the certificate of origin prescribed in Article I of this Order ;
- (b) during the period beginning on the thirteenth day of June, nineteen hundred and forty and ending on the twenty-third day of June, nineteen hundred and forty, unless accompanied by a certificate issued by an officer of the Italian Phytopathological Service in the Form B set forth in the Schedule to this Order ;
- (c) after the twenty-third day of June, nineteen hundred and forty. [233]

*Restriction on Importation of Raw Cherries grown in Hungary.*

5. Raw Cherries grown in Hungary shall not be landed in England or Wales—

- (a) during the period beginning on the nineteenth day of May, nineteen hundred and forty, and ending on the ninth day of June, nineteen hundred and forty, unless each consignment is accompanied by the certificate of origin prescribed in Article I of this Order ;
- (b) after the ninth day of June, nineteen hundred and forty. [234]

*Delivery and Competence of Certificates.*

6. Every certificate prescribed by this Order shall be delivered to the proper officer of Customs and Excise at the same time as, and together with the entry relating to the consignment, and the certificates prescribed in sub-paragraphs (b) of Articles 3 and 4 may cover all the consignments included in one cargo. [235]

*Disposal of Raw Cherries landed in Contravention of Order.*

7. Raw Cherries landed in England or Wales without such a certificate as is prescribed in this Order shall be forthwith destroyed by and at the expense of the importer unless they are re-exported or are disposed of in accordance with the terms of a licence issued by an Inspector. [236]

*Powers of Inspection and Entry.*

8. An Inspector may, upon production, if so required, of his appointment or authority, open and examine and take samples of the contents of any consignment or package containing or suspected to contain, raw cherries which have been shipped, or are suspected to have been shipped, from any country other than Scotland, Northern Ireland, Eire, the Channel Islands or the Isle of Man, and enter any premises upon which any such raw cherries are or are suspected to be. [237]

*Licences.*

9. Notwithstanding any provisions of this Order any raw cherries may be landed in England or Wales, under and in accordance with the conditions of a licence issued by the Minister or by an Inspector. [238]

*Offences.*

10. Any person wilfully obstructing or impeding an Inspector in the exercise of his powers under this Order, or failing to comply with the provisions of Article 7 of this Order, or with the terms of any licence granted under that Article or under Article 9 of this Order, shall be liable to a penalty not exceeding ten pounds, or, in respect of a second or subsequent offence, to a penalty not exceeding fifty pounds. [239]

*Definitions.*

11. In this Order—

“Inspector” means an Inspector or other authorised officer of the Ministry of Agriculture and Fisheries.

“Importer” includes any person who, whether as owner, consignor, or consignee, agent or broker, is in possession of, or in any wise entitled to the custody or control of the Article. [240]

*Commencement of Order.*

12. This Order shall come into operation on the nineteenth day of May, nineteen hundred and forty, and shall remain in force until the thirtieth day of September, nineteen hundred and forty. [241]

*Short Title.*

13. This Order may be cited as the Importation of Raw Cherries Order of 1940. [242]

\* \* \* \* \*

## SCHEDULE

CERTIFICATE TO ACCOMPANY RAW CHERRIES GROWN IN FRANCE  
AND LANDED AFTER 27th MAY

This is to certify that the raw cherries included in the shipment described below were grown within the Zone described in the Schedule to this Certificate.

Number and description of packages in shipment .....

Date and Port of Shipment .....

Name of Vessel .....

Signature .....

Official Status .....

Date .....

Schedule.

Description of Zone.

The Department of Calvados, and the Cantons of Quillebœuf, Pont-Audemer, Beuzeville, Routot, Montfort-sur-Risle, Cormeilles, St. Georges-du-Vieuvre, Bourgheroulde, Amfreville, Brionne, and Thiberville, in the Department of Eure.

CERTIFICATE TO ACCOMPANY RAW CHERRIES GROWN IN ITALY AND  
LANDED BETWEEN 13TH AND 23RD JUNE.

This is to certify that the raw cherries included in the shipment described below were grown either within the Region of Emilia or within the Province of Verona.

Number and description of packages in shipment .....

Distinguishing Marks .....

Date of Dispatch .....

Port of Shipment .....

Signature .....

Official Status .....

Date .....

[243]

## THE FRUIT TREE PESTS (CAMBRIDGESHIRE) ORDER OF 1940

*S. R. & O., 1940, No. 1933*

*October 31, 1940*

D.I.P. 609.

The Minister of Agriculture and Fisheries by virtue and in exercise of the powers vested in him under the Destructive Insects and Pests Acts, 1877 to 1927, and of every other power enabling him in that behalf, orders as follows :—

### *Examination of Fruit Trees.*

1. If it appears to the Local Authority from a complaint made to it by a grower of fruit trees or by any association of such growers that there is reason to suspect that any fruit trees growing on any premises within the district are so affected with any of the pests specified in the Schedule to this Order that any such pest is likely to spread to fruit trees growing on any other premises, it shall thereupon cause an Officer (hereinafter called "the appointed Officer") to examine as soon as may be practicable the fruit trees suspected of being so affected. [244]

### *Prevention of Spread of Infection.*

2.—(1) After the examination of the fruit trees under Article 1 hereof the appointed Officer shall make a report thereon to the Local Authority, and the Local Authority, if satisfied that the fruit trees or any of them are so affected as aforesaid, may serve upon the occupier of the premises a notice requiring him within such time as may be prescribed in the notice to treat the fruit trees in such manner as may be prescribed in the notice. Such notice may in addition to any other treatment require the cutting out and burning of any branch that is dead or is affected with any of the pests specified in the Schedule to this Order and the picking and burning of any fruit so affected.

(2) Nothing in this Order shall prevent an occupier of premises upon whom a notice has been served under this Article completely destroying by fire or otherwise any fruit trees in respect of which a

notice has been served upon him, and if he does so destroy them, he shall be deemed to have complied with the notice.

(3) Where a notice has been served under this Article, the appointed Officer shall, if so directed by the Local Authority, ascertain whether the notice has been complied with. [245]

*Powers of Appointed Officer.*

3. For the purpose of making an examination under Article 1 hereof, or for the purpose of ascertaining whether a notice served under Article 2 hereof has been complied with, the appointed Officer, upon production if so required of his appointment, may at all reasonable times enter upon any premises in the district and examine any fruit trees thereon, and the occupier of the premises shall give to him all reasonable facilities for carrying out the examination. [246]

*Reports and copies of Notices to be sent to the Ministry.*

4. The Local Authority shall furnish to the Ministry of Agriculture and Fisheries a report of any action taken by it under this Order, together with details of any complaints received by it, and a copy of any notice served under Article 2 hereof. [247]

*Service of Notices.*

5. For the purpose of this Order, a notice shall be deemed to be served on any person if it is delivered to him personally or left for him at his last known place of abode or business, or sent through the post in a letter addressed to him there, and a notice purporting to be signed by the Clerk to the Local Authority shall be *prima facie* evidence that it was signed by him as Clerk to the Local Authority. [248]

*Appointment of Officers.*

6. The Local Authority may appoint such persons as the Local Authority may deem desirable to be appointed Officers for the execution of this Order. [249]

*Penalties.*

7. Every person shall be liable, on conviction, to a penalty not exceeding ten pounds, or in the case of a second or subsequent offence, to a penalty not exceeding fifty pounds, who

- (i) fails to comply with any notice served under Article 2 of this Order; or
- (ii) fails to give to an appointed Officer all reasonable facilities as required by this Order; or
- (iii) wilfully obstructs or impedes an appointed Officer in the exercise of his powers under this Order. [250]

*Definitions.*

8. "The District" means the Administrative County of Cambridge or the Borough of Cambridge as the case may be.

"Local Authority" means the Local Authority for the District.

"Fruit trees" includes all trees, bushes, canes and plants used for the production of edible fruit, and any stock, sucker or cutting of such trees, bushes, canes and plants. [251]

*Enforcement of Order.*

9. The provisions of this Order shall be enforced by the Local Authority. [252]

*Notification of the Order.*

10. This Order shall be published by the Local Authority in accordance with any directions given by the Minister. [253]

*Revocation of Order.*

11. The Fruit Tree Pests (Cambridgeshire) Order of 1934, is hereby revoked ; provided that such revocation shall not :—

- (i) affect the previous operation of such Order or anything duly done or suffered under such Order ; or
- (ii) affect any right, privilege, obligation, or liability acquired accrued, or incurred under such Order ; or
- (iii) affect any penalty incurred in respect of any offence committed against such Order ; or
- (iv) affect any investigation, legal proceeding, or remedy in respect of any right, privilege, obligation, liability or penalty as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued, or enforced, and any such penalty may be imposed as if this Order had not been made. [254]

*Short Title.*

12. This Order may be cited as the Fruit Tree Pests (Cambridgeshire) Order of 1940. [255]

*Commencement of Order.*

13. This Order shall come into operation on the fifteenth day of November, nineteen hundred and forty. [256]

\* \* \* \* \*

## SCHEDULE

<i>Fungi.</i>	Apple and Pear Scab. Brown Rots. Fruit Tree Cankers.
<i>Insects.</i>	Apple Sucker. Black Currant Mite, or " Big Bud." Codling Moth. Fruit Tree Aphides. Fruit Tree Capsid Bugs. Fruit Tree Red Spiders. Winter Moths. [257]

## DISEASES

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## ORDERS, CIRCULARS AND MEMORANDA

## ILFORD (MEASLES AND WHOOPING COUGH) REGULATIONS, 1940

S. R. &amp; O., 1940, No. 66

January 13, 1940

102404.

Whereas by Part IV of the Ilford Corporation Act, 1937, provision is made with respect to infectious disease in the borough of Ilford and by virtue of sub-section (2) of section 64 (Parents etc. to notify certain diseases), sub-section (3) of section 65 (Power to close schools and exclude children from entertainments), and sub-section (3) of section 66 (Restrictions on attendance at schools and places of assembly) of that Act the diseases to which the said sections 64, 65 and 66 (which sections are set out in the schedule hereto) respectively apply are notifiable diseases as defined in section 343 of the Public Health Act, 1936, and any other disease which the Minister of Health by regulation under section 143 of the Public Health Act, 1936, declares to be a notifiable disease for the purpose of the said sections :

Now therefore the Minister of Health in exercise of his powers under the said sections and of all other powers enabling him in that behalf hereby makes the following regulations, that is to say :—

1.—(1) These regulations may be cited as the Ilford (Measles and Whooping Cough) Regulations, 1940.

(2) These regulations shall come into operation on the 1st day of February, 1940, and shall be enforced and executed by the local authority.

(3) The local authority shall give notice of these regulations by advertisement in a local newspaper circulating within the district and in such other manner as they think sufficient for informing persons interested, and shall also send a copy to each registered medical practitioner who after due inquiry is ascertained to be practising within the district. [258]

2. (1) In these regulations unless the context otherwise requires :—  
“ local authority ” means the council of the borough of Ilford ;  
“ the district ” means the borough of Ilford.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [259]

3. Measles and whooping cough are hereby declared to be notifiable diseases for the purposes of sections 64, 65 and 66 of the Ilford Corporation Act, 1937. [260]

## SCHEDULE

### *Infectious Disease*

64. Parents, etc., to notify certain diseases.—(1) As from the commencement of this section any parent or other person having the care or charge of a child attending at a school in the borough who is aware of or has reason to suspect the occurrence of a disease to which this section applies in any person residing with him or is himself suffering from such a disease and who fails forthwith to notify such occurrence to the head teacher principal or superintendent of the school shall be liable to a penalty not exceeding twenty shillings.

In any proceeding under this subsection a certificate purporting to be under the hand of the head teacher principal or superintendent of the school at which the child named in the certificate is in attendance stating that he has or has not received any notification as required under this section shall be evidence of the facts stated in such certificate unless the defendant shall require that the person by whom the certificate has been signed shall be called as a witness.

(2) The diseases to which this section applies are notifiable diseases as defined in section 343 of the Public Health Act, 1936, and any other disease which the Minister by regulation made under section 143 of the Public Health Act 1936 declares to be a notifiable disease for the purpose of this section.

(3) For the purposes of this section the expression "school" shall include a Sunday school.

(4) The head teacher principal or superintendent of any school shall whenever so required produce for the inspection of the medical officer any notification or record of notifications under this section.

### 65. Power to close schools and exclude children from entertainments.—

(1) If the Corporation or any committee of the council acting on the advice of the medical officer with the view of preventing the spread of a disease to which this section applies require the closing of any Sunday school or day school or any department thereof or the exclusion of certain children therefrom for a specified time or the exclusion of children from places of public entertainment or assembly for a specified time such requirement shall be at once complied with.

(2) Any person responsible for the conduct or management of any Sunday school or day school or any department thereof or place of public entertainment or assembly wilfully failing to comply with any such requirement shall for every such failure be liable to a penalty not exceeding five pounds.

(3) The diseases to which this section applies are notifiable diseases as defined in section 343 of the Public Health Act, 1936, and any other disease which the Minister by regulation made under section 143 of the Public Health Act 1936 declares to be a notifiable disease for the purpose of this section.

66. Restrictions on attendance at schools and places of assembly.—(1) As from the commencement of this section no person of or exceeding the age of sixteen years who has the custody charge or care of a child—

(a) who is or has been attending any school or any part thereof which for the time being is closed by order of the Corporation or of the education committee of the council with the view of preventing the spread of a disease to which this section applies; or

(b) who is suffering from a disease to which this section applies; or

- (c) who with the view of preventing the spread of a disease to which this section applies has been prohibited from attending school by the medical officer or school medical officer ;

shall permit such child to attend any Sunday school or day school or place of public entertainment or assembly without having procured from the medical officer or school medical officer or the medical practitioner attending the child a certificate (which if granted shall be granted free of charge upon application) that in his opinion such child may attend such Sunday school or day school or place of public entertainment or assembly without undue risk of communicating disease to others.

(2) Any person who offends against the provisions of this section shall be liable to a penalty not exceeding forty shillings.

(3) The diseases to which this section applies are notifiable diseases as defined in section 343 of the Public Health Act 1936 and any other disease which the Minister by regulation made under section 143 of the Public Health Act 1936 declares to be a notifiable disease for the purpose of this section.

[261]

\* \* \* \* \*

## MEASLES AND WHOOPING COUGH REGULATIONS, 1940 \*

*S. R. & O., 1940, No. 204*

*February 9, 1940*

102577.

Whereas the Minister of Health is empowered by section 143 of the Public Health Act, 1936, to make regulations with a view to the treatment of persons affected with any epidemic, endemic or infectious disease and for preventing the spread of such diseases, and by such regulations to apply, with or without modifications, to any disease to which the regulations relate any enactment relating to the notification of disease or to notifiable diseases ;

And whereas measles and whooping cough are endemic and infectious diseases ;

And whereas the Minister of Health is further empowered by section 283 of the said Act to prescribe the form of any certificate to be used for any of the purposes of the said Act ;

And whereas by regulations made by the Minister of Health on the dates set out in column 1 of the third schedule to these regulations provision was made for the notification of cases of the diseases specified in column 2 thereof in the districts mentioned in column 3 thereof :

Now therefore the Minister of Health in exercise of his powers under the said sections 143 and 283 and of all other powers enabling him in that behalf hereby makes the following regulations :—

1.—(1) These regulations may be cited as the Measles and Whooping Cough Regulations, 1940.

(2) These regulations shall come into operation on the date hereof, and shall be enforced and executed in every district by the local authority.

(3) Every local authority shall give notice of these regulations by advertisement in a local newspaper circulating within their district

\* These regulations superseded the provisional regulations which were made, and came into force, on the 23rd day of October, 1939.

and in such other manner as they think sufficient for informing persons interested, and shall also send a copy to each registered medical practitioner who after due inquiry is ascertained to be practising within the district.

(4) These regulations shall not extend to London. [262]

2. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [263]

3. Sections 144 to 146 of the Public Health Act, 1936, being enactments relating to the notification of disease, shall as modified and set out in the first schedule to these regulations apply to measles and whooping cough. [264]

4.—(1) Upon the receipt of a certificate under these regulations or on becoming aware in any other way of a case or suspected case of measles or whooping cough in a district the medical officer of health or an officer of the local authority acting under the instructions of the medical officer of health shall make such inquiries and take such steps as are necessary or desirable for investigating the source of infection for preventing the spread of infection and for removing conditions favourable to infection :

Provided that nothing in this regulation shall be deemed to authorise the medical officer of health or other officer of a local authority to take any of the steps herein mentioned at any institution other than one belonging to a local authority except with the consent of the managers of that institution.

(2) The duties assigned to a medical officer of health by the Sanitary Officers (Outside London) Regulations, 1935, shall be deemed to extend to and to include all action by a medical officer of health in the execution of these regulations. [265]

5. The form set out in the second schedule to these regulations is hereby prescribed as the form of certificate to be used for the purposes of these regulations. [266]

6. The regulations made on the dates set out in column 1 of the third schedule to these regulations and providing for the notification of the diseases specified in column 2 thereof in the districts mentioned in column 3 thereof are hereby rescinded :

Provided that the rescission of the said regulations shall not affect any right or liability acquired or incurred thereunder. [267]

## FIRST SCHEDULE

### *Public Health Act 1936*

*Section 144.*—(1) When an inmate of any building used for human habitation, not being a hospital in which persons suffering from an infectious disease are received, is suffering from measles or whooping cough, every medical practitioner attending on, or called in to visit, that inmate (in this section referred to as "the patient") shall, as soon as he becomes aware that the patient is suffering from measles or whooping cough, send to the medical officer of health of the district in which the building is situate a certificate in the prescribed form.

(2) Any medical practitioner who fails to send a certificate which he is required by this section to send shall be liable to a fine not exceeding forty shillings.

(2) Where the medical practitioner attending a patient is himself the medical officer of health of the district, he shall be entitled to the fee to which, if he were not the medical officer of health, he would have been entitled in respect of a certificate sent by him to the medical officer.

(2) Unless the medical practitioner is a medical officer holding a commission in His Majesty's forces, the local authority shall pay to him for the certificate a fee of one shilling, whether the case occurs in his private practice or not. [268]

1. Date of regulations.	2. Diseases notifiable.	3. Districts.
22nd June, 1915.	Whooping cough ...	St. Helens County Borough.
16th Feb., 1916.	Do.	Southport County Borough.
15th April, 1916.	Do.	Horsforth Urban District.
28th Feb., 1920.	Measles and whooping cough.	Bradford City.
Do.	Measles ... ..	Burnley County Borough.

THIRD SCHEDULE—*continued*

1. Date of regulations.	2. Diseases notifiable.	3. Districts.
3rd March, 1920.	Measles	Cities of Leeds and Newcastle-upon-Tyne. County Boroughs of Darlington, Derby and Middlesbrough. Boroughs of Barnes and Chesterfield.
13th March, 1920.	Do.	Boroughs of Eccles and Yeovil.
19th March, 1920.	Measles and whooping cough.	Colchester Borough.
25th March, 1920.	Measles ... ..	Warrington County Borough. Manchester City, Southport County Borough.
31st March, 1920.	Do.	Boroughs of Bridport and Wanstead and Woodford. Cheshunt Urban District.
Do.	Do.	Boroughs of Congleton, Ilminster and Taunton.
Do.	Do.	Urban Districts of Crompton and Bredbury and Romiley. Featherstone Urban District.
13th April, 1920.	Measles and whooping cough.	
14th April, 1920.	Do.	Horwich Urban District.
23rd August, 1920.	Measles ... ..	Axbridge Rural District.
25th August, 1920.	Do. ... ..	Whickham Urban District.
21st Sept., 1920.	Do. ... ..	Ashwell Rural District.
15th Oct., 1920.	Do. ... ..	Folkestone Borough.
15th Jan., 1921.	Measles and whooping cough.	Wakefield County Borough.
4th Sept., 1922.	Measles ... ..	Nuneaton Borough.
24th Jan., 1923.	Do. ... ..	Preston County Borough.
17th August, 1923.	Do. ... ..	Ripon City.
15th Dec., 1923.	Do. ... ..	Carlisle County Borough.
3rd May, 1924.	Whooping cough ...	Eccles Borough.
9th August, 1924.	Measles ... ..	Glossop Borough.
11th Feb., 1925.	Do. ... ..	Wigan County Borough.
24th Dec., 1926.	Whooping cough ...	Darlington County Borough.
19th April, 1928.	Measles ... ..	Sunderland County Borough.
20th Dec., 1928.	Do. ... ..	Crosby Borough.
17th May, 1929.	Measles ... ..	Sevenoaks Urban District.
27th June, 1929.	Measles and whooping cough.	West Bromwich County Borough.
30th Dec., 1930.	Measles ... ..	Sevenoaks Rural District.
25th Feb., 1932.	Do. ... ..	Walthamstow Borough.
15th April, 1935.	Do. ... ..	Chislehurst and Sidecup Urban District.
20th Sept., 1935.	Measles and whooping cough.	Whitstable Urban District.
15th April, 1936.	Measles ... ..	Salford County Borough.
6th June, 1936.	Do. ... ..	Orpington Urban District.
1st Dec., 1936.	Do. ... ..	Bletchley Urban District.
4th August, 1938.	Do. ... ..	East Barnet Urban District.
29th Sept., 1938.	Do. ... ..	West Ham County Borough.
13th Jan., 1939.	Do. ... ..	Oldham County Borough.
19th Sept., 1939.	Do. ... ..	Kerrier Rural District.

## COUNTY OF LONDON (MEASLES AND WHOOPING COUGH) AMENDMENT REGULATIONS, 1940

*S. R. & O., 1940, No. 205*

*February 9, 1940*

102580.

The Minister of Health in exercise of the powers conferred on him by section 143 of the Public Health Act, 1936, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the County of London (Measles and Whooping Cough) Amendment Regulations, 1940, and shall be read as one with the County of London (Measles and Whooping Cough) Regulations, 1938 (hereinafter referred to as “ the principal regulations ”) and these regulations and the principal regulations may be cited together as the County of London (Measles and Whooping Cough) Regulations, 1938 and 1940. [271]

2. The first schedule to the principal regulations shall be amended as follows :—

- (1) In subsection (1) of section 192 of the Public Health (London) Act, 1936, as modified and set out therein paragraph (a) of the proviso shall be omitted.
- (2) In subsection (6) of the said section 192 the words from “ two shillings and sixpence ” to the end of the subsection shall be deleted and there shall be substituted therefor the words “ one shilling ”. [272]

\* \* \* \* \*

## PUBLIC HEALTH (TUBERCULOSIS) REGULATIONS, 1940

*P. R. & O., 1940*

*September 19, 1940*

103012.

The Minister of Health hereby certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency the following regulations should come into immediate operation and in exercise of his powers under the Public Health Act, 1936, and of all other powers enabling him in that behalf hereby makes the following regulations to come into operation forthwith as provisional regulations :—

1.—(1) These regulations may be cited as the Public Health (Tuberculosis) Regulations, 1940, and shall come into operation on the date hereof.

(2) Regulations 3 and 4 of these regulations shall not apply to Wales and Monmouthshire and regulation 5 of these regulations shall apply only to Wales and Monmouthshire. Subject thereto these regulations shall have effect throughout England and Wales.

(3) These regulations, in so far as they impose duties upon the medical officer of health of a local authority, shall be enforced and executed by the local authority, and, in so far as they impose duties

upon the medical officer of health of a county council, shall be enforced and executed by the county council. [273]

2.—(1) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(2) In these regulations unless the context otherwise requires—“local authority” includes the common council of the City of London and the council of a metropolitan borough; “district” in relation to any local authority in London means the area for which the authority acts; “registered person” in relation to the medical officer of health of a local authority means a person in respect of whom an entry has been made in the register kept by the medical officer of health in pursuance of paragraph (2) of Article 10 of the Public Health (Tuberculosis) Regulations, 1930, and has not been removed in pursuance of sub-paragraph (i) or sub-paragraph (iii) of paragraph (5) of Article 10 of those regulations, and “register” means the register so kept; “the Minister” means the Minister of Health. [274]

3.—(1) Every medical officer of health of a local authority, other than the common council of the City of London, the council of a metropolitan borough and the council of a county borough, shall forthwith on receipt of a requirement in writing by the Minister send to the county medical officer of health for the county within which the district of the local authority is situate, a return in the form shown in the Schedule to these regulations containing the particulars specified in the columns numbered 1, 2, 3 and 4 thereof, of all male registered persons born in the years specified in such requirement and shall as soon as practicable after the first day of each month thereafter send to the said county medical officer of health a return containing similar particulars of all male persons born in any year as respects which a requirement has then been made under this regulation whose names have been added to the register since the making of the last previous return under this paragraph.

(2) Every county medical officer of health shall forthwith complete the columns numbered 5 and 6 of each return sent to him by a medical officer of health of a local authority in pursuance of paragraph (1) of this regulation and send the return so completed to such local office of the Ministry of Labour and National Service as the Minister may direct. [275]

4. The medical officer of health of the common council of the City of London and every medical officer of health of the council of a metropolitan borough or of a county borough shall forthwith on receipt of a requirement in writing by the Minister send to such local office of the Ministry of Labour and National Service as the Minister may direct a return in the form shown in the Schedule to these regulations containing the particulars specified therein of all male registered persons born in the years specified in such requirement and shall as soon as practicable after the first day of each month thereafter send to such local office of the Ministry of Labour and National Service as aforesaid a return containing similar particulars of all male persons born in any year as respects which a requirement has then been made under this regulation whose names have been added to the register since the making of the last previous return thereunder. [276]



## VENEREAL DISEASES

*Circular 2004**April 24, 1940*

## ARRANGEMENTS FOR TREATMENT OF MEMBERS OF THE SERVICES.

SIR,—I am directed by the Minister of Health to state that he has been in communication with the Service Departments with regard to the arrangements to be made for the treatment of members of the Forces and of the various auxiliary women's organisations who may be suffering from venereal disease.

1. Except in special circumstances it is not anticipated that any great use will be made by male members of the Services of the facilities provided at civilian Treatment Centres, or of any in-patient accommodation available for men suffering from venereal disease. It may, however, be found necessary to make use of the civilian Treatment Service for women members of auxiliary organisations, namely, the Auxiliary Territorial Service, the Voluntary Aid Detachments, the Women's Royal Naval Service, and the Women's Auxiliary Air Force, and I am to request that every assistance may be given to the Service authorities in providing treatment for any such cases. [281]

2. As indicated in Circulars 1938 and 1938A of the 29th December, 1939, payment for the treatment of cases of sickness among Service patients at hospitals included in the Emergency Hospital Scheme will be made by the Minister in the same way as payment for the treatment of air raid casualties, and no claim should be made on the Service Departments in respect of such treatment. Where treatment for venereal disease is given to any male or female member of the Services (either as an in-patient at a hospital included in the Scheme, or as an out-patient at a Treatment Centre provided at such a hospital), who has been referred for treatment by the appropriate Service Medical Authorities, the authorities of the hospital concerned should accordingly make a claim for payment in the usual way under the Emergency Hospital Scheme. The Minister is also prepared to arrange that the cost of examining specimens submitted to approved pathological laboratories by hospitals included in the Scheme, in respect of Service patients duly referred to the hospital by the Service Authorities for treatment, should be met in the same way as the cost of examining specimens in respect of air raid casualties or of any other patients for the cost of whose treatment he has undertaken responsibility. Claims in respect of Service patients suffering from venereal disease, whether for their treatment in hospital or for work in a laboratory, should, if possible, be included as a separate item in other claims made by the Authority under the Emergency Hospital Scheme. [282]

3. Where Service patients are duly referred by the Service Authorities for treatment to hospitals or centres not included in the Emergency Hospital Scheme, or where costs are incurred by approved pathological laboratories in examining specimens from Service patients treated at such hospitals or centres, the authorities of the institution should in the first instance make claims for payment on the Council of the County or County Borough in which the hospital or centre is situated, indicating clearly the number of Service cases involved, the cost of the work done,

and the Service to which the cases belong. The Service Departments are prepared to reimburse to Local Authorities any expenditure incurred in this manner in respect of Service patients referred for treatment by the local Service Medical Authorities to hospitals or centres not included in the Emergency Hospital Scheme. Claims covering the costs which would have been borne by the Local Authority in a civilian case should be made by the Authority in respect of the military or of the Auxiliary Territorial Service or Voluntary Aid Detachments to the Under Secretary of State, the War Office, London, S.W.1, in respect of the Navy or of the Women's Royal Naval Service to the Director of Navy Accounts, Kingswood School, Lansdowne Road, Bath; and in respect of the Air Force or of the Women's Auxiliary Air Force to the Officer in Charge, Medical Statistical Office, Royal Air Force, Ruislip, Middlesex. [283]

4. In some instances it may happen that members of the Services attend for treatment at a Centre without due reference from the appropriate Service Medical Authorities. Although treatment cannot be refused, the patient should be referred to the Medical Officer of his or her unit for further treatment, and should be provided with Form V.15 giving particulars of the case to be handed by the patient to the Medical Officer of the Unit. In this connection the Minister desires to draw attention to the following observations which he had received from the Army Council :—

“ Concealment of venereal disease from military authority by a soldier is a serious offence in the Army, which renders the soldier liable to severe punishment. Application for treatment to a civilian Centre by a soldier who had not reported sick previously to his own military Medical Officer might indicate an attempt at concealment. Prior to any treatment being given at a civilian Centre, therefore, the above facts should be clearly pointed out to the soldier by the Medical Officer of the Centre, and he should be strongly advised to report for initial treatment to the Medical Officer of his unit.

Medical Officers of Centres will realise from the above that the handing by a soldier of Form V. 15 to his unit Medical Officer might indicate that the soldier has attempted to conceal his disease, and this fact should also be pointed out prior to treatment being given.”

Attendances without due reference from the Service Authorities, will, it is anticipated, occur only rarely and it appears to the Minister that the cost of treatment for such cases should be borne on the same basis as for civilian patients. No payment of costs of treatment will be made in such cases either by the Service Departments or under the Emergency Hospital Scheme. [284]

5. A copy of this Circular is being sent to the Medical Officer of Health, the Financial Officer of the Council and the Medical Officer of the Treatment Centre.

I am, Sir, etc. [285]

## PRECAUTIONS AGAINST THE SPREAD OF ALIMENTARY INFECTIONS

*Circular 2198*

*November 25, 1940*

SIR,

1. I am directed by the Minister of Health to remind Local Authorities of the measures which can usefully be taken to protect the public against the spread of the diseases commonly conveyed by food, *i.e.* Diseases of the Enteric Group (Typhoid and Paratyphoid Fevers), Dysentery, Food Poisoning and Intestinal Parasitism. [286]

2. As the Council are aware, one of the commonest causes of the spread of the enteric diseases is the contamination of food, including milk, by the hands of persons excreting the causal organisms of the disease, whether they are actually suffering from the disease, or are chronic carriers of the infection, or are persons temporarily excreting the casual organisms without themselves being ill. [287]

3. The Milk and Dairies Order, 1926, confers on Medical Officers of Health in Articles 18 and 19 powers relating to infected milk supplies and to persons having access to the milk, milk vessels, etc., at registered premises whose employment may be likely to lead to the spread of infectious disease. It also requires generally under Article 15 that every person engaged in the milking of cows or the distribution or measuring of milk or otherwise having access to the milk or to the churns or other milk receptacles shall keep his clothing and person in a cleanly condition. Article 23 of the Order requires that in connection with the milking of cows the hands of the milker shall be thoroughly washed and dried before milking, and throughout the milking be kept free from contamination. [288]

4. As respects food and drink in general, provision is made in Part III of the First Schedule to the Public Health (Infectious Diseases) Regulations, 1927, whereby on a report by the Medical Officer of Health, the Local Authority can (1) in any case of enteric fever or dysentery occurring in the district by notice in writing require, in addition to other precautions, that the person specified in the notice shall discontinue any occupation connected with the preparation or handling of food or drink for human consumption and (2) require the medical examination by the Medical Officer of Health or a Medical Officer acting on his behalf of a person suspected by the Medical Officer of Health to be a carrier of enteric fever or dysentery infection who is employed in any trade or business connected with the preparation or handling of food or drink for human consumption, and can suspend such person from his employment for a specified period if as a result of the examination or from bacteriological or protozoological examination of material obtained at any such examination, the Medical Officer of Health is of opinion that the person is such a carrier. [289]

5. Apart, however, from conditions which can be dealt with by the temporary discontinuance of work by persons actually suffering from the disease or found to be carriers of it, experience shows that outbreaks of disease of the enteric group and of food poisoning are not uncommonly caused, or their range extended, by the handling of food by persons who have not previously been suspected to be suffering from or carrying

disease, and the Minister is advised that a substantial number of consequential cases could be avoided if all persons engaged in the preparation or handling of food intended for sale were habitually to take the elementary precautions required by law. The relevant statutory provisions as regards food other than milk are those contained in Section 13 (1) of the Food and Drugs Act, 1938, which read as follows :—

“Section 13 (1).—Subject to the provisions of this section the following provisions shall have effect in relation to every room in which any food intended for human consumption, other than milk, is prepared for sale or sold, or offered or exposed for sale, or deposited for the purpose of sale or of preparation for sale, that is to say :—

\* \* \* \* \*

(h) cleanliness shall be observed by persons employed in the room, both in regard to the room and all articles, apparatus and utensils therein, and in regard to themselves and their clothing ; and

(i) there shall be provided in, or within reasonable distance of, the room suitable washing basins and a sufficient supply of soap, clean towels, and clean water, both hot and cold, for the use of persons employed in the room :

Provided that paragraph (i) of this subsection shall not apply in relation to a room which is used for the sale or storage, or for the sale and storage, of food contained in containers of such materials, and so closed, as to exclude all risk of contamination, but is not otherwise used for any purpose in connection with the preparation, storage or sale of food.

\* \* \* \* \*

(5) In this section, the expression ‘room’ includes a shop or cellar or any other part of a building, and a shed, store or outbuilding or any part thereof, and the provisions of this section . . . shall, so far as applicable, apply in relation to a yard, forecourt or area as they apply in relation to a room.” [290]

6. The Minister is advised that the thorough washing of their hands by mixers, bakers, cooks, and all other persons engaged in the preparation and subsequent handling of food for sale, on commencing work or resuming work after an interval, and also after every act of defecation and urination, would go far to exclude the risk of the contamination of food by the organisms which cause the diseases referred to above. He therefore asks that, if they have not already done so, the Council should bring the requirements of the Law and these considerations, to the notice of all persons engaged in any trade or business concerned with the preparation or distribution of food for human consumption and should direct their officers to make such inspections as may be necessary to secure compliance with these requirements. [291]

7. A copy of this circular is being sent to the Medical Officer of Health. [292]

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## CEREBRO-SPINAL FEVER

March 5, 1940

DEAR SIR,

I desire to draw your attention to the Report on the Control of Cerebro-Spinal Fever (No. 65 in the Series of Reports on Public Health and Medical Subjects) which was issued in 1931 and to the Memorandum on the administration of anti-meningococcus serum in cases of cerebro-spinal fever dated March, 1932.

In view of the encouraging results which have recently been obtained by chemotherapy it is now considered opportune to issue a short memorandum briefly summarising the modern views on treatment of the disease—a copy of which is enclosed. Observations are also included on the epidemiology of cerebro-spinal fever, the part played by the healthy “carrier” in its spread, the control of contacts, diagnosis and the general measures of prevention.

Whilst the memorandum has been primarily designed for the use of Medical Officers of Health, it should also be of assistance and interest to medical practitioners who may be called upon to diagnose and treat the disease and steps should accordingly at once be taken to bring the memorandum to the notice of those concerned. *The two essentials in the treatment of cerebro-spinal fever by chemotherapy are early administration of the selected drug and adequate dosage. Directly a clinical diagnosis is made, chemotherapy should be given without waiting for bacteriological confirmation.* The patient should also be given a plentiful supply of fluids. The removal of patients to hospital is practically always desirable, and *a note of the drug used, the amount, route and time of administration, should invariably be sent with the patient.*

May I also remind you that cerebro-spinal fever remains on the list of diseases which are compulsory notifiable and any evidence of exceptional epidemic or endemic prevalence should form the subject of special inquiry and report, a copy of which should be sent to the Ministry.

The services of the Emergency Public Health Laboratories, set up by the Medical Research Council in collaboration with the Ministry of Health, are available for diagnostic purposes.

The memorandum has been placed on sale and further copies may be obtained through any bookseller or directly from H.M. Stationery Office at the usual addresses.

Yours, etc. [293]

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DISEASES OF ANIMALSSee ANIMALS.

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# DIVERSION AND STOPPING-UP OF HIGHWAYS

*See HIGHWAYS.*

## DOGS

*See ANIMALS.*

## EDUCATION

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## ORDERS, CIRCULARS AND MEMORANDA

### ELEMENTARY EDUCATION GRANT PROVISIONAL REGULATIONS, 1939

*P. R. & O., 1940*

*November 11, 1939*

The Board of Education hereby certify under Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and accordingly they hereby make the following Regulations to come into operation forthwith as Provisional Regulations :—

*Grant payable to Authorities.*

1. The grant payable by the Board to Local Education Authorities in aid of Elementary Education is payable, subject to the conditions of these Regulations, for each financial year. [294]

2. In the case of each Authority the grant payable for a year will bear the same proportion to the net expenditure recognised by the Board for that year as the grant for the year 1937-8 bore to the net

expenditure as ascertained for that year under the Elementary Education Grant Regulations, 1937.

Provided that—

- (a) In calculating the said proportion from the figures for the year 1937-8, any deduction which may have been made under the said Regulations from the grant for that year shall be treated as not having been made ;
- (b) If the said proportion is less than one-half and any net expenditure on air raid precautions falls to be taken into account in calculating the grant for any year under these Regulations, the amount of that grant as calculated under the foregoing provisions of this Article shall be increased by the amount by which one-half of such net expenditure exceeds the said proportion of that expenditure. [295]

*Ascertainment of Expenditure.*

3.—(1) For any year for which grant is payable under these Regulations, the Board will ascertain net expenditure in the case of each Authority from the Elementary Education Revenue Account prescribed by the Education Accounts (Annual Statements) Order, 1921.

(2) From the expenditure shown in the Revenue Account the Board will exclude—

- (i) expenditure which in the opinion of the Board is attributable to a service in respect of which payments are made by a Government Department other than the Board ;
- (ii) payments to another Authority which are calculated by reference to net cost falling to be met from the rates ; and
- (iii) any other expenditure not recognised by the Board as expenditure in aid of which parliamentary grants should be made to the Authority.

(3) After excluding the expenditure aforesaid, the Board will deduct from the remaining expenditure all receipts relating thereto, except—

- (i) receipts in respect of rates raised by the Authority, Crown contributions in lieu of rates, and grants from the Board, and
- (ii) payments from another Authority which are calculated by reference to net cost falling to be met from the rates ;

and the net expenditure thus ascertained will be the net expenditure of the Authority to be recognised by the Board. [296]

*Conditions of Grant.*

4. The grant is conditional upon the Board being satisfied that the Authority—

- (i) have performed their duties under the Act ;
- (ii) have complied with the requirements, so far as applicable, of the Regulations of the Board in force from time to time relating to elementary education, including these Regulations ; and
- (iii) have supplied punctually such information and returns as the Board require.

If the Board are not satisfied on any of these matters they may withhold or make a deduction from the grant. [297]

5.—(1) The payment of the grant in full is conditional upon the Board being satisfied that the salaries of teachers are such that no occasion arises for a deduction from the grant as in this Article provided.

(2) If any scales of salary in Schools provided or maintained by an authority are less than the recognised scales where such scales are applicable, and if in the opinion of the Board the efficiency of the provision made for elementary education for the area is thereby endangered, the Board may make such deduction from the grant as will in their opinion secure that the expenditure by the authority falling to be met from the rates shall not be less than such expenditure would have been if the scales of salary in question had been in accordance with the recognised scales.

(3) For the purposes of this Article the recognised scales are those laid down in the Report dated the 14th October, 1938, of the Burnham Committee on Scales of Salaries for Teachers in Public Elementary Schools and in the Appendices thereto, subject to any subsequent modifications agreed by the Committee and approved by the Board. [298]

6.—(1) The payment of grant in respect of maintenance allowances provided by an Authority under Section 24 of the Act is subject to the following conditions :—

- (i) The arrangements of the Authority with regard to maintenance allowances and estimates of the cost must be submitted at such times as the Board may require and must be approved by them; and the Board will not recognise allowances provided otherwise than in accordance with arrangements so approved.
- (ii) The allowances must be for pupils who are prepared to continue their education for a definite period of suitable length at an organised and progressive course of instruction, and the pupils must be in need of assistance for that purpose.
- (iii) Subject as hereinafter provided, a pupil must have attained, at the beginning of the first school term for which an allowance is payable to him under the approved arrangements, the school leaving age then in force in the Authority's area, that is to say, the age up to which parents are required (subject to any provisions for exemption in force in the area) to cause their children to attend school.

(2) Where the Authority had, before the passing of the Education Act, 1936, made a byelaw raising the school leaving age to fifteen and obtained the Board's approval to the provision of allowances from a lower age, that lower age shall, unless the approval is withdrawn, be substituted for the school leaving age in the application of this Article to allowances which have become payable under the approved arrangements before the day on which Section 1 of the said Act, as modified by the Education (Emergency) Act, 1939, comes into operation.

(3) Where the Authority had, before the 25th January, 1937, become committed to the future provision of an allowance for an individual pupil, and the school leaving age has been raised to fifteen before the allowance has become payable under the approved arrange-

ments, the Board may recognise the allowance as if the school leaving age had not been so raised. [299]

*Provisions as to Payment.*

7.—(1) A sum estimated to amount to ninety per cent. of the grant payable for the year will, subject to the provision by Parliament of the necessary moneys, be payable by monthly instalments on account during the year.

(2) After the end of the year such further instalments as the Board think fit, based on the returns required by them for the purpose, may be paid before final adjustments.

(3) The inclusion by the Board of expenditure for the purpose of calculating any instalments of the grant will not commit the Board to the recognition of such expenditure for the purposes of these Regulations.

(4) The balance of the grant will be paid after the audited accounts for the year and any other returns required by the Board for the purpose have been received and examined.

(5) The grant will be calculated to the nearest pound, a fraction of a pound in the final result being ignored or reckoned as a pound according as it is, or is not, less than ten shillings. [300]

*Definitions and Supplemental Provisions.*

8.—(1) In these Regulations unless the context otherwise requires—  
“The Act ” means the Education Act, 1921, as amended by any subsequent enactment.

“The Board ” means the Board of Education.

“Authority ” means Local Education Authority for Elementary Education.

“Year ” or “financial year ” means year beginning on the 1st April. [301]

9. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, or as to the inclusion or exclusion of any items of receipt or expenditure for the purpose of calculating grant, the decision of the Board shall be final. [302]

10.—(1) These Regulations are made in substitution for the Elementary Education Grant Regulations, 1939, dated June 6, 1939, and shall be deemed to have had effect as from the 1st day of April, 1939, but shall not affect the operation of previous Regulations in relation to periods prior to the said 1st day of April.

(2) These Regulations may be cited as the Elementary Education, Grant Provisional Regulations, 1939. [303]

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## ADULT EDUCATION AMENDING REGULATIONS NO. 1, 1939

*November 2, 1939*

1. The existing Regulations hereby amended are the Adult Education Regulations, 1938 (S. R. & O. 1938, No. 597). [304]

2. In Article 8 of the existing Regulations, paragraphs (b), (c), and (j) shall be omitted. [305]

3. In Article 10 of the existing Regulations the following words shall be added at the end of paragraph (c) as part of that paragraph :—

“ and in case of failure, by reason of circumstances arising directly from war conditions, to carry on a Course for the period required by the Regulations, the Board will pay such reduced grant (if any) as they think proper, having regard to the length of the period for which the Course is actually carried on, after consideration of the explanation submitted by the Responsible Body.” [306]

4. In Article 11 of the existing Regulations the following paragraphs shall be substituted for paragraphs (a) and (b) :—

“(a) Notwithstanding the provisions of Article 10 the Board may aid the work of not more than seventy full-time tutors under Universities or University Colleges as Responsible Bodies by inclusive grants in substitution for separate grants in respect of the several Courses taken by such tutors.

“(b) A Responsible Body desiring to receive an inclusive grant must submit an application giving particulars of the qualifications and experience of the tutor in question and showing the nature of the work he will undertake and the conditions of his employment.” [307]

5. The provisions of the existing Regulations relating to the minimum standard for full grant for Courses given in Three Year Tutorial Classes, University Sessional Classes, and University Extension Lecture Classes, and for Terminal or Short Terminal Courses and One Year Courses, shall be modified by revising the figures in the relevant Articles as follows :—

Article 13 (f) :	Existing figures	...	...	12-9-6-24-18-12
	Revised figures	...	...	8-8-6-16-16-12
Article 16 (e) :	Existing figures	...	...	12-24
	Revised figures	...	...	8-16
Article 17 (e) :	Existing figure	...	...	12
	Revised figure	...	...	8
Article 22 (c) :	Existing figures	...	...	12-24
	Revised figures	...	...	8-16
Article 22 (f) :	Existing figure	...	...	9
	Revised figure	...	...	6
Article 23 (e) :	Existing figures	...	...	12-24
	Revised figures	...	...	8-16 [308]

6. These Regulations shall have effect only with respect to Courses of study carried on wholly within the school year beginning on the 1st

day of August, 1939, or treated under Article 9 of the existing Regulations as belonging to that year. [309]

7. These Regulations may be cited as the Adult Education Amending Regulations No. 1, 1939. [310]

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## SOCIAL AND PHYSICAL TRAINING GRANT REGULATIONS, 1939

*November 23, 1939*

1. The Board of Education may make grants for any of the following purposes to an association recognised by them under these Regulations :—

- (a) the maintenance of facilities for social and physical training in England or Wales, including the payment of leaders, instructors and wardens and the hiring and equipping of premises ;
- (b) the training of leaders, instructors and wardens for the carrying on of such facilities as aforesaid ;
- (c) the defraying of incidental expenses of organisation and administration. [311]

2. An association seeking recognition under these Regulations may be a national association, or a local branch of a national association, or some other local association or committee (not being a local education authority), and the Board must be satisfied as to its constitution, financial standing, and generally as to its fitness to receive grant. Recognition may be withdrawn at the Board's discretion. [312]

3. The amount of the grant to be paid to an association in respect of any period will be determined by the Board after consideration of the character, efficiency, volume and cost of the work, and of the aggregate sums available to the Board for grants under these Regulations ; and the Board may pay such instalments during the period in question as they think fit having regard to the proposals of the association. The grants will be subject to such reductions (if any) in respect of broken periods as the Board think fit, and the Board may withhold or make a deduction from grant if the requirements of these Regulations are not fulfilled. [313]

4. No grant will be paid for a purpose which in the opinion of the Board is attributable to a service in respect of which payments are made by the Board otherwise than under these Regulations or by another Government Department. [314]

5. A person must not be required, as a condition of taking advantage of any facilities or training for which aid is sought under these Regulations, to attend or abstain from attending any Sunday School, place of religious worship, religious observance or instruction in religious subjects. [315]

6. All work for which aid is sought under these Regulations, and the premises in which it is carried on, must be open to inspection

by one of His Majesty's Inspectors or any other person employed by the Board for the purpose of inspection. [316]

7. Such registers and records must be kept, and such information and returns must be furnished from time to time, as the Board may require. [317]

8. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, the decision of the Board shall be final. [318]

9. These Regulations may be cited as the Social and Physical Training Grant Regulations, 1939. [319]

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## STATE SCHOLARSHIPS REGULATIONS, 1939

*December 7, 1939*

1. These Regulations relate to the award of State Scholarships for students proceeding from Secondary Schools to Universities; and unless the context otherwise requires—

“The Board” means the Board of Education.

“University” means a University in England or Wales.

“Honours Degree” means a Degree conferred by a University, or a title of a Degree conferred on a woman by the University of Cambridge, which is accepted by the Board as an Honours Degree for the purposes of these Regulations.

“Approved” means approved by the Board for the purposes to which the context relates.

“Second Examination” means an examination approved as a Second Examination for Secondary School purposes, and “Examining Body” means the body conducting such an Examination.

“Secondary School” means a Secondary School in England or Wales, being a school for pupils who intend to remain for at least four years and up to at least the age of sixteen which provides a progressive course of general education of a kind and amount suited to an age range at least from twelve to seventeen. [320]

2.—(a) The Board will award annually not more than three hundred and sixty State Scholarships tenable in each case for an approved course of study; and the course must be a course leading up to an Honours Degree except in cases where the Board, having regard to circumstances arising out of war conditions, think fit to dispense with this requirement.

(b) A State Scholar must follow his approved course as a member or student of an Institution accepted by the Board for the purpose, being—

(i) in the case of a University organised on a collegiate basis, a constituent College or other society recognised by the University;

(ii) in the case of London, a College incorporated in the University or a School of the University ;

(iii) in other cases, the University itself.

(c) The Board may make it a condition of the award of a Scholarship that the holder shall reside in an approved College or Hostel.

(d) A Scholarship may be taken up immediately or after an approved interval, and will be tenable for the period, up to not more than three academic years, over which the approved course extends ; but the Board may extend the tenure up to not more than four years in all—

(i) if the normal period for the approved course is at least four years ; or

(ii) if an additional course (whether for a further Degree or not) is approved for the student on evidence of special attainments supported by a recommendation from the Institution.

(e) Where the Board are satisfied that the student cannot, for reasons of health, reasonably be expected to complete the approved course or courses in the normal period, they may extend the period for which the Scholarship is tenable by such a period, not exceeding one year, as they think fit. **[321]**

**3.** In order to be eligible for an award a candidate must—

(a) be a British subject ;

(b) pass a Second Examination and be nominated by the Examining Body as having reached an approved standard ;

(c) have been in full-time attendance at a Secondary School for a period of not less than two years immediately preceding the date of the examination, except so far as the Board, having regard to circumstances arising out of war conditions, may think fit to relax this requirement ;

(d) be under the age of nineteen if a boy, or twenty if a girl, on the 31st July in the year of the examination. **[322]**

**4.** In every year the Board will decide how many of the Scholarships shall be allocated to each Examining Body ; and each Examining Body will be required to allocate its Scholarships among boys and girls according to the directions of the Board. **[323]**

**5.**—(a) If a State Scholar satisfies the Board that he needs assistance to enable him to follow his approved course, the Scholarship will comprise such grants as the Board think fit in aid of his fees and, to an amount not exceeding £100 a year, of his maintenance.

(b) In determining the grants the Board will consider the recommendations of a University or College Committee appointed for the purpose, and will have regard to the student's private means, to any Scholarship or Exhibition held by him, and to the assistance which may reasonably be expected from persons who would in ordinary circumstances have borne or contributed to the expense of his education.

(c) Grants in aid of fees will ordinarily be paid to the Institution, and in aid of maintenance to the student through the Head or a nominee of the Institution, and the payments will be made by such instalments as the Board think fit. **[324]**

**6.** Candidates will not be eligible for awards or grants under these Regulations if they are assisted as holders of the Board's Science Awards, or as recognised students in Training Colleges aided by the

Board, or if the Board determine them to be ineligible on account of assistance of a like character from the Board or from any Government Department in the British Islands. [325]

7.—(a) The tenure of a Scholarship is subject to satisfactory attendance, conduct and progress, and the Board will require to be satisfied on these matters from time to time by reports from the Head of the Institution or otherwise.

(b) Improvements in financial circumstances which might affect the amount of any grant under these Regulations must be communicated to the Board.

(c) A Scholarship may be revised or cancelled if the Board think proper. [326]

8. If any question arises as to the interpretation of these Regulations the decision of the Board shall be final. [327]

9.—(a) The State Scholarships Regulations, 1938, are hereby repealed without prejudice to the continuance of any Scholarship already awarded.

(b) These Regulations may be cited as the State Scholarships Regulations, 1939. [328]

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## ELEMENTARY EDUCATION GRANT REGULATIONS, 1940

*S. R. & O.*, 1940, No. 690

May 7, 1940

*Grant payable to Authorities.*

1. The grant payable by the Board to Local Education Authorities in aid of Elementary Education is payable, subject to the conditions of these Regulations, for each financial year. [329]

2. In the case of each Authority the grant payable for a year will bear the same proportion to the net expenditure recognised by the Board for that year as the grant for the year 1937–8 bore to the net expenditure as ascertained for that year under the Elementary Education Grant Regulations, 1937.

Provided that—

(a) In calculating the said proportion from the figures for the year 1937–8, any deduction which may have been made under the said Regulations from the grant for that year shall be treated as not having been made; and

(b) If the said proportion is less than one-half and any net expenditure on air-raid precautions falls to be taken into account in calculating the grant for any year under these Regulations, the amount of that grant as calculated under the foregoing provisions of this Article shall be increased by the amount by which one-half of such net expenditure exceeds the said proportion of that expenditure. [330]

*Ascertainment of Expenditure.*

3.—(1) For any year for which grant is payable under these Regulations, the Board will ascertain net expenditure in the case of each Authority from the Elementary Education Revenue Account prescribed by the Education Accounts (Annual Statements) Order, 1921.

(2) From the expenditure shown in the Revenue Account the Board will exclude—

- (i) expenditure which in the opinion of the Board is attributable to a service in respect of which payments are made by a Government Department other than the Board ;
- (ii) payments to another Authority which are calculated by reference to net cost falling to be met from the rates ; and
- (iii) any other expenditure not recognised by the Board as expenditure in aid of which parliamentary grants should be made to the Authority.

(3) After excluding the expenditure aforesaid, the Board will deduct from the remaining expenditure all receipts relating thereto, except—

- (i) receipts in respect of rates raised by the Authority, Crown contributions in lieu of rates, and grants from the Board, and
- (ii) payments from another Authority which are calculated by reference to net cost falling to be met from the rates ;

and the net expenditure thus ascertained will be the net expenditure of the Authority to be recognised by the Board. [331]

*Conditions of Grant.*

4. The grant is conditional upon the Board being satisfied that the Authority—

- (i) have performed their duties under the Act ;
- (ii) have complied with the requirements, so far as applicable, of the Regulations of the Board in force from time to time relating to elementary education, including these Regulations ; and
- (iii) have supplied punctually such information and returns as the Board require.

If the Board are not satisfied on any of these matters they may withhold or make a deduction from the grant. [332]

5.—(1) The payment of the grant in full is conditional upon the Board being satisfied that the salaries of teachers are such that no occasion arises for a deduction from the grant as in this Article provided.

(2) If any scales of salary in Schools provided or maintained by an authority are less than the recognised scales where such scales are applicable, and if in the opinion of the Board the efficiency of the provision made for elementary education for the area is thereby endangered, the Board may make such deduction from the grant as will in their opinion secure that the expenditure by the authority falling to be met from the rates shall not be less than such expenditure would have been if the scales of salary in question had been in accordance with the recognised scales.

(3) For the purposes of this Article the recognised scales are those laid down in the Report dated the 14th October, 1938, of the Burnham

Committee on Scales of Salaries for Teachers in Public Elementary Schools and in the Appendices thereto, subject to any subsequent modifications agreed by the Committee and approved by the Board.  
[333]

6. —(1) The payment of grant in respect of maintenance allowances provided by an Authority under Section 24 of the Act is subject to the following conditions :—

- (i) The arrangements of the Authority with regard to maintenance allowances and estimates of the cost must be submitted at such times as the Board may require and must be approved by them ; and the Board will not recognise allowances provided otherwise than in accordance with arrangements so approved.
- (ii) The allowances must be for pupils who are prepared to continue their education for a definite period of suitable length at an organised and progressive course of instruction, and the pupils must be in need of assistance for that purpose.
- (iii) Subject as hereinafter provided, a pupil must have attained, at the beginning of the first school term for which an allowance is payable to him under the approved arrangements, the school leaving age then in force in the Authority's area, that is to say, the age up to which parents are required (subject to any provisions for exemption in force in the area) to cause their children to attend school.

(2) Where the Authority had, before the passing of the Education Act, 1936, made a byelaw raising the school leaving age to fifteen and obtained the Board's approval to the provision of allowances from a lower age, that lower age shall, unless the approval is withdrawn, be substituted for the school leaving age in the application of this Article to allowances which have become payable under the approved arrangements before the day on which Section 1 of the said Act, as modified by the Education (Emergency) Act, 1939, comes into operation.

(3) Where the Authority had, before the 25th January, 1937, become committed to the future provision of an allowance for an individual pupil, and the school leaving age has been raised to fifteen before the allowance has become payable under the approved arrangements, the Board may recognise the allowance as if the school leaving age had not been so raised. [334]

#### *Provisions as to Payment.*

7.—(1) A sum estimated to amount to ninety per cent. of the grant payable for the year will, subject to the provision by Parliament of the necessary moneys, be payable by monthly instalments on account during the year.

(2) After the end of the year such further instalments as the Board think fit, based on the returns required by them for the purpose, may be paid before final adjustment.

(3) The inclusion by the Board of expenditure for the purpose of calculating any instalments of the grant will not commit the Board to the recognition of such expenditure for the purposes of these Regulations.

(4) The balance of the grant will be paid after the audited accounts for the year and any other returns required by the Board for the purpose have been received and examined.

(5) The grant will be calculated to the nearest pound, a fraction of a pound in the final result being ignored or reckoned as a pound according as it is, or is not, less than ten shillings. [335]

*Definitions and Supplemental Provisions.*

8. In these Regulations unless the context otherwise requires—

“The Act” means the Education Act, 1921, as amended by any subsequent enactment.

“The Board” means the Board of Education.

“Authority” means Local Education Authority for Elementary Education.

“Year” or “financial year” means year beginning on the 1st April. [336]

9. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, or as to the inclusion or exclusion of any items of receipt or expenditure for the purpose of calculating grant, the decision of the Board shall be final.

10.—(1) The foregoing Articles of these Regulations shall have effect as from the 1st day of April, 1940, in substitution for previous Regulations of the Board providing for the payment of Grant to Authorities in aid of Elementary Education, but shall not affect the operation of such previous Regulations in relation to periods prior to that date.

(2) The Elementary Education Grant Provisional Regulations, 1939, dated 11th November, 1939 (being Regulations made by the Board as Provisional Regulations in substitution for the Elementary Education Grant Regulations, 1939, dated 6th June, 1939), are hereby confirmed so far as they relate to the year beginning on the 1st day of April, 1939.

(3) These Regulations may be cited as the Elementary Education Grant Regulations, 1940. [337]

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## HIGHER EDUCATION GRANT AMENDING REGULATIONS NO. 4, 1940

*S. R. & O., 1940, No. 1534*

*August 19, 1940*

1. The existing Regulations hereby amended are the Higher Education Grant Regulations, 1933, as amended by Amending Regulations No. 1, 1934, No. 2, 1935, and No. 3, 1939. [338]

2. Whereas it is provided by paragraph (1) of Article 4 of the existing Regulations that the grant payable for any year to certain Authorities will be reduced by an amount equal to a fraction of the

total amount of the additional grants payable in respect of Training Colleges under Article 3, and that the fraction will be ascertained as therein mentioned from figures for the preceding year relating to average attendances in Public Elementary Schools and products of penny rates:

For the purpose of ascertaining the amount by which a grant payable to an Authority for any year subsequent to the 31st March, 1940, is to be reduced under the said paragraph (1) of Article 4, the words "financial year 1937-8" shall be substituted in the said paragraph for the words "preceding year". [339]

3. These Regulations may be cited as the Higher Education Grant Amending Regulations No. 4, 1940. [340]

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## ELEMENTARY EDUCATION GRANT AMENDING REGULATIONS NO. 1, 1940

*S. R. & O., 1940, No. 1835*

*October 14, 1940*

1. The existing Regulations hereby amended are the Elementary Education Grant Regulations, 1940. [341]

2. Whereas it is expedient, in respect of the provision of meals by Local Education Authorities for Elementary Education, to increase, as from the 1st July, 1940, the grant payable to such Authorities under the existing Regulations:

For Article 2 of the existing Regulations the following Article is substituted:—

"2. In the case of each Authority the grant payable for a year will be the percentage, hereinafter called the standard percentage, of the net expenditure recognised by the Board for that year representing the proportion which the grant for the year 1937-8 bore to the net expenditure as ascertained for that year under the Elementary Education Grant Regulations, 1937:

Provided that—

- (a) In calculating the said proportion from the figures for the year 1937-8, any deduction which may have been made under the said Regulations from the grant for that year shall be treated as not having been made.
- (b) In respect of any recognised net expenditure on air-raid precautions, if the standard percentage is less than fifty, fifty per cent. shall be substituted for the standard percentage.
- (c) In respect of any recognised net expenditure on provisions of meals under Sections 82 to 84 of the Act—
  - (i) if the standard percentage is less than thirty, fifty per cent. shall be substituted for the standard percentage, or
  - (ii) if the standard percentage is not less than thirty, twenty shall be added to the standard percentage.

- (d) The foregoing sub-paragraph (c) shall not have effect in respect of expenditure for any period prior to the 1st day of July, 1940." [342]

3. In Article 3 of the existing Regulations, the following paragraph is substituted for paragraph (3) :—

"(3) After excluding the expenditure aforesaid and classifying the remaining expenditure as required for the purposes of Article 2, the Board will deduct from the expenditure of each class all receipts relating thereto, except—

(i) receipts in respect of rates raised by the Authority, Crown contributions in lieu of rates, and grants from the Board, and

(ii) payments from another Authority which are calculated by reference to net cost falling to be met from the rates ;

and the net expenditure thus ascertained will be the net expenditure of the Authority to be recognised by the Board." [343]

4. These Regulations may be cited as the Elementary Education Grant Amending Regulations No. 1, 1940. [344]

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## SECONDARY SCHOOLS PROVISIONAL AMENDING REGULATIONS, 1940

*P. R. & O., 1940*

*November 25, 1940*

The Board of Education hereby certify under Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and accordingly they hereby make the following Regulations to come into operation forthwith as Provisional Regulations :—

1. The existing Regulations hereby amended are the Regulations for Secondary Schools, 1935, as amended by the Secondary Schools Amending Regulations No. 1, 1936, and No. 2, 1938. [345]

2. Where the Board of Education are satisfied that, in consequence of a decline in the number of its pupils, or of an evacuation plan, or of other circumstances arising out of the present War, a School receiving direct grant is unable to meet reasonable expenses of maintenance, the Board may pay to the School for the present school year, beginning on the 1st August, 1940, such additional grant (if any) as they think necessary for safeguarding the financial position of the School. Such additional grant will not, save in exceptional circumstances, exceed £700. [346]

3. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, the decision of the Board shall be final. [347]

4. These Regulations may be cited as the Secondary Schools Provisional Amending Regulations, 1940. [348]

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## TRAINING OF TEACHERS SUPPLEMENTARY REGULATIONS, 1940

July 29, 1940

1. The Training Colleges to which these Regulations apply are those non-provided Training Colleges (other than any Training Department of a University or University College) which are recognised by the Board of Education under the Provisional Regulations for the Training of Teachers, 1939, for the whole or part of the academic year beginning on the 1st August, 1939. [349]

2. Where the Board of Education are satisfied that, in consequence of a decline in the number of students or of expenditure involved in transfer from one place to another, a Training College to which these Regulations apply is unable to meet reasonable expenses of maintenance for the said academic year, the Board may pay to the Governing Body such additional grant (if any) as they think necessary for safeguarding the financial position of the College. [350]

3. Where, for reasons of economy or otherwise in consequence of war-time conditions, a Training College to which these Regulations apply is closed, and its recognition under the said Provisional Regulations ceases from a date not later than the end of the said academic year, the Board may pay such additional grant (if any) as they think necessary to enable the College to meet liabilities outstanding at that date. [351]

4. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, the decision of the Board shall be final. [352]

5. These Regulations may be cited as the Training of Teachers Supplementary Regulations, 1940. [353]

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## GOVERNMENT EVACUATION SCHEME

*Circulars Nos. 1513 and 2048*

June 17, 1940

### ALLOWANCES FOR TEACHERS AND OTHER TRANSFERRED STAFF

1. In the Board of Education Circulars 1501 and 1502 and the Ministry of Health Circular 1978 Local Authorities and the Governing Bodies of state-aided schools were authorised to pay to teachers and other full-time staff transferred in a quasi-permanent capacity to reception areas under the Government Evacuation Scheme certain weekly allowances in lieu of, or in addition to, billeting payments. These allowances were extended by the Ministry of Health Circular 2012 to midwives lent by voluntary hospitals for work in emergency maternity homes and to independent midwives engaged for such work. As explained in those Circulars the scope and amount of the allowances

were based on the financial arrangements authorised by the Government in respect of civil servants. These arrangements have recently been reviewed and certain additional concessions have been made to evacuated civil servants with family or household responsibilities. It has, therefore, been decided to effect certain consequential improvements in the allowances to which teachers and other transferred staffs of Local Authorities are eligible. Details of these new arrangements are set out in the following paragraphs. (References to teachers should be taken as covering the other categories of staff already referred to.) [354]

2. Under Rules 4 and 5 of the Rules for Payment of Allowances enclosed with the Board of Education Circular 1501 allowances were payable on a graded scale according to salary. This scale is now cancelled and all teachers entitled to allowances under Rules 4 and 5 will be eligible to receive an allowance at the rate of 14s. per week provided that the commitments of which account is being taken amount to not less than 21s. per week. If these commitments amount to less than 21s. per week the allowance payable will be reduced by the amount by which the commitments fall short of that sum.\* Allowances will, of course, only be paid so long as the commitments continue. The overriding maximum salary of £850 in Rule 4, above which a teacher could not claim an allowance, does not now apply. [355]

3. Continuing expenditure on household commitments at home may be taken to include (in the case of rented unfurnished premises) rent, rates and house insurance; and in the case of property owned by the teacher, the gross annual value of the house for Income Tax under Schedule A (or mortgage payments if greater), net ground rent, rates, house insurance and Income Tax (Schedule A) payments. A teacher who is providing accommodation for his family elsewhere is eligible to claim an allowance in respect of such commitments even if he has moved his home since the date of evacuation. The cost of furniture storage may also be taken into account. [356]

4. Teachers who make their own arrangements for accommodation in the reception area, with the consent of the Chief Billeting Officer of the Reception Authority, will remain eligible, under Rule 2, to receive a weekly allowance of 5s. in addition to any allowances to which they may be entitled under paragraph 2 above. [357]

5. A teacher renting his own accommodation in the reception area who claims an allowance under paragraph 4 above and is paying less than 21s. per week for his liabilities (as defined in paragraph 3) may, if the cost of his new rent necessarily exceeds what he was paying before evacuation, claim that the excess should be taken into account in determining the amount of his allowance; e.g. a teacher paying rent in the evacuation area amounting to 15s. per week would normally be eligible for an allowance of 8s. plus 5s., i.e. 13s. in all, if he was renting accommodation in the reception area. If, however, he was unable to find suitable accommodation in the reception area for less than, say, 20s. per week, the difference between the rent payments (i.e. 20s.

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\* A few teachers with commitments amounting to less than 21s. will have been receiving allowances under the old Rules 4 and 5 at higher rates than they will be eligible to receive under the arrangements now defined (e.g. a billeted teacher with a salary of £850 whose commitments, say for furniture storage, amount to 9s. per week, was eligible to receive 7s. per week under the old Rule 4 or Rule 5 but only 2s. under the new). In such cases the new rate of allowance should be paid as from 17th June, 1940.

minus 15s.) might be added to his allowance, which would then amount to 18s. in all. Under no circumstances, however, can an allowance exceeding 19s. be paid—*i.e.* 14s. plus 5s. in lieu of billeting. [358]

6. These revised rates of allowance are payable retrospectively from 29th January last and Authorities and Governing Bodies are asked to make appropriate adjustments, as an evacuation charge, in respect of allowances already paid. (Retrospective adjustments should not be made where the application of the new Rules results in a reduction of the rate of allowance payable—see footnote to paragraph 2 above.) [359]

7. Under Rule 8 of the Rules for Payment enclosed with Board of Education Circular 1501 allowances ceased to be payable during periods of absence from billets or other authorised accommodation exceeding two days. This rule is now cancelled and allowances should continue to be paid to a teacher who is absent from his billet or other authorised accommodation on official business; and for a period not exceeding two weeks in the case of absence on approved holidays or sick leave. This arrangement also applies as from 29th January, 1940, and retrospective adjustments should be made where necessary. [360]

8. Under Rule 9 of the old Rules referred to in the preceding paragraph, allowances were not payable to teachers entitled to free board and lodging in return for residential duties. This rule is now cancelled and such teachers are eligible as from 17th June, 1940, to receive allowances on the same basis as teachers who are billeted. [361]

9. Teachers who are married or have equivalent domestic responsibilities (*e.g.* those who live with and are mainly responsible for the support of their parents), have in certain cases removed their families and sometimes their furniture to the reception area. In such cases the cost of furniture removal and the third class rail fares of the teacher's family may be refunded to him as an evacuation charge. A certificate from the Chief Billeting Officer of the Reception Authority should be provided by the teacher as directed in Rule 2. Reasonable expenditure of this kind may be refunded where the removal has taken place between 1st September, 1939, and the date of this Circular. [362]

10. The reasonable cost of furniture removal effected during this period may also be refunded to an unmarried teacher who has no domestic responsibilities equivalent to those of a married teacher, provided that he has terminated his liability for rent in the evacuation area. [363]

11. A teacher who is eligible to claim repayment under paragraphs 9 or 10 above may also be refunded the reasonable cost of transporting his family or his furniture or both back to the evacuation area provided that he has been recalled or is recalled by the Authority or Governing Body in the future in the interests of the teaching service, and has not himself taken the initiative in applying for his recall. [364]

12. Repayment may also be claimed by a teacher who has in the past incurred expenditure in removing his furniture to store or who has terminated his liability for rent by the payment of a lump sum. In the former case the reasonable cost of removal may be refunded; in the latter the maximum sum which may be refunded by the Authority must not exceed £20 without reference to the Board or the Ministry as the case may be; and the Authority or Governing Body should in all cases ask to see the appropriate documents in order to satisfy themselves that the terms of the agreement are fair and reasonable. [365]

13. Cases will, no doubt, occur in the future where teachers who are now in the reception areas or who may subsequently be evacuated will wish to remove their households and will apply for a refund of the expenditure involved. The Board and the Ministry do not wish to commit themselves in advance to any general refusal to pay the cost of furniture removal to reception areas or the travelling expenses of teachers' families in the future, but the extent to which it may be possible to agree to such costs falling on the Exchequer must depend on several factors which cannot accurately be foreseen. These factors include the amount of accommodation available in reception areas, and the degree of permanence which is likely to attach to a teacher's stay in the reception area. Both these factors must to a great extent depend on the general war situation and the response to evacuation on the part of parents. While, therefore, the Board would be prepared to consider proposals from Local Authorities and Governing Bodies for the repayment of such expenditure to teachers in their service who wish to take this step, where it is felt that this would be justifiable, they consider that teachers should be dissuaded from undertaking such commitments until there is some assurance that their stay will be a prolonged one. [366]

14. Repayment of the items mentioned in paragraph 11 above need not be limited to the period before the issue of this Circular; but when the teacher proposes in the future to terminate his liability for rent by the payment of a lump sum the prior approval of the Authority or Governing Body should be obtained. [367]

15. The provisions of the Board of Education Circulars 1501 and 1502 with regard to the payment of travelling expenses for evacuated teachers returning to their homes for holidays remain unchanged. [368]

16. One copy of the amended Rules is enclosed with this Circular for the information of the Authority or Governing Body. A supply of amended Rules and application forms for distribution to teachers is being printed. Local Education Authorities and Governing Bodies or Managers of aided schools should apply for them to the Board of Education stating the number required. All other Authorities should apply to the Ministry of Health. Authorities are asked to make early application for the number required in order that there may be as little delay as possible in making payments to teachers. It will of course be understood that there is no need for Authorities or Governing Bodies to require teachers to complete a second form when they only wish to claim the balance of allowances already paid to them at the old rates under Rules 4 and 5. [369]

17. Particulars of the expenditure incurred by Governing Bodies or Managers of aided schools in accordance with the terms of this Circular should be submitted to the Ministry of Health at quarterly intervals as instructed in paragraph 6 of the Board's Circular 1502. Claims should be submitted on the special form which has now been prepared and which will be sent to the Governing Body or Managers when they apply to the Board of Education for a supply of the amended Rules and teachers' application forms. [370]

## RULES FOR SPECIAL PAYMENTS AND ALLOWANCES FOR TEACHERS AND OTHER TRANSFERRED STAFF

### *Prefatory Note*

1. Teachers in State-aided schools, who have been evacuated under the official scheme, are eligible under certain conditions, as from 29th January, 1940, to receive weekly allowances at the cost of the Exchequer and to have certain travelling and removal expenses refunded to them. The scheme, which is based on the arrangements applicable to Civil Servants, has been amended in certain important particulars since it was first announced in March, 1940, and revised Rules for Payment are set out below. [371]

2. Payment will be made by the Local Education Authority or by the Body of Governors or Managers responsible for paying the teacher's salary, and claims should be submitted to them on the Claim Form attached to this statement. This special form should *not*, however, be used for claiming the cost of holiday journeys under Rule 16. (It is understood that many Local Education Authorities and Governing Bodies supply their own claim forms for this purpose.) Nor is it applicable to claims made under Rule 15. Claims may be made by teachers who have returned to evacuation areas in respect of any period subsequent to the 29th January, 1940, during which they were officially evacuated. [372]

3. Local Authorities and Governing Bodies have been asked to make appropriate adjustments in the case of teachers who have already been paid allowances (under the old Rules) at rates lower than those to which they are now entitled. Supplementary claims are not, therefore, necessary in such cases. A fresh application form *should* be completed if a teacher who already receives or has received an allowance wishes also to claim the cost of moving his family or his furniture to the reception area or back again under Rules 12-14. [373]

4. Members of the non-teaching staff of Local Education and other Authorities of evacuation areas who have been transferred in a quasi-permanent capacity to reception areas in connection with the Government Evacuation Scheme will also be eligible for allowances and travelling facilities on the same terms and conditions as teachers. Claims should be submitted by these officers to the Authority in the evacuation area which employs them. Midwives lent by Voluntary Hospitals for work in Emergency Maternity Homes and independent midwives engaged for such work are also eligible to claim payment under the Rules; they should submit their claims to the Welfare Authority in the reception area from whom they are receiving their salaries. [374]

### *Rules*

(References to "teachers" in these Rules should be taken to include the other categories of staff defined in Paragraph 4 of the Prefatory Note.)

1. All teachers who wish to do so will remain billeted at the 5s. rate, and this sum will not be recovered from them. In order to compensate for this concession, as compared with the terms applicable to Civil Servants, a reduction of 2s. has been made in the allowances

payable to householders, and to non-householders who are treated as householders in accordance with the provisions of Rule 5 below. [375]

2. A teacher who is not billeted, but obtains or has obtained alternative accommodation for himself or for himself and his family in or near the reception area to which he is evacuated, will be eligible to receive an allowance of 5s. per week, plus any amount to which he may be entitled under the conditions set out below; provided that the consent of the Chief Billeting Officer of the local receiving authority to the actual accommodation selected is obtained and, in the case of furnished apartments, that the house has not been earmarked for any other purpose. Any accommodation so obtained will not be exempt from a liability to billeting. [376]

3. Evacuated teachers will for the purpose of these allowances fall into two main classes—householders and non-householders, respectively. The term "householder" will be interpreted to include not only an occupier of a house which he owns or is renting or purchasing by instalments, but also a teacher with a contractual obligation, of which he cannot immediately relieve himself, in respect of a flat, similarly rented or purchased, or furnished or unfurnished rooms; and such a teacher will be treated as a householder until he obtains release from the contract on reasonable terms. [377]

4. A *householder* will, in addition to being billeted or to receiving the 5s. payable under Rule 2, be eligible to receive an allowance at the rate of 14s. a week, provided that the commitments of which account is being taken amount to not less than 21s. per week. If these commitments amount to less than 21s. per week, the allowance payable will be reduced by the amount by which the commitments fall short of that sum.\* Allowances will, of course, only be paid so long as the commitments continue.

Continuing expenditure on household commitments at home may be taken to include (in the case of rented unfurnished premises) rent, rates and house insurance; and in the case of property owned by the teacher, the gross annual value of the house under Income Tax Schedule A (or mortgage payments if greater), net ground rent, rates, house insurance and Income Tax (Schedule A) payments. A teacher who is providing accommodation for his family elsewhere is eligible to claim an allowance in respect of such commitments, even if he has moved his home since the date of evacuation. The cost of furniture storage may also be taken into account.

Generally speaking, a married woman teacher will not be eligible to receive an allowance under this Rule or Rule 5 unless her husband can be regarded as dependent on her. [378]

5. Teachers who are *non-householders* will not, generally speaking, be eligible to receive allowances. Allowances will, however, be payable in the following cases where non-householders are committed to obligations similar to those borne by householders:—

(a) Where a teacher normally lives with his parents or other relative

\* A few teachers with commitments amounting to less than 21s. will have been receiving allowances under the old Rules 4 and 5 at higher rates than they will be eligible to receive under the arrangements now defined (e.g. a billeted teacher with a salary of £350 whose commitments, say for furniture storage, amount to 9s. per week, was eligible to receive 7s. per week under the old Rule 4 or Rule 5, but only 2s. under the new). In such cases the new rate of allowance will be paid as from 17th June, 1940.

or dependent and where, although such relative or dependent is legally responsible for the commitments specified in Rule 4, the teacher himself was actually bearing them wholly or in part before he was evacuated and continues to do so.

- (b) Where a teacher was, before his transfer to a reception area, and continues to be legally responsible for an appropriate share of the commitments specified in Rule 4 in respect of accommodation normally shared with a relative or friend (*e.g.* two women who may be buying jointly the house in which they normally live).
- (c) Where a teacher, though not legally responsible, was before his transfer to a reception area and continues to be responsible by private arrangement for an appropriate share of the commitments specified in Rule 4 in respect of accommodation normally shared with a non-dependent relative or friend.

In such cases, so long as the obligation continues, the teacher will receive an allowance on the same terms and conditions as a householder. [379]

6. Allowances will also be payable to *unmarried* teachers in receipt of salaries amounting to £192 8s. per annum or less who were prior to evacuation living with parents or other near dependent relatives and were contributing a sum in excess of 16s. a week. In the case of such teachers with salaries of up to 70s., 71s., 72s., 73s., or 74s. a week (£182, £184 12s., £187 4s., £189 16s., £192 8s. per annum) an allowance of 5s., 4s., 3s., 2s., or 1s. per week, respectively, will be made, or an allowance equivalent to the amount by which the continuing contribution exceeds 16s. per week, whichever is the less. These arrangements will apply only where a teacher is required to continue to make some payment to his parents or near relatives because of their financial circumstances. "Near relatives" for the purpose of this Rule may be taken to include brother, sister, grandparent, uncle, aunt, niece, nephew.

If a teacher is making a specific contribution in respect of rent, etc. (as defined in Rule 4) in addition to the contribution of which account is taken under this Rule, he may also claim an allowance under Rule 5 based on the amount actually paid in respect of rent, etc. The total allowance paid, however, must not exceed 14s. in the case of a billeted teacher, or 19s. in the case of a teacher making his own approved arrangements for accommodation.

In this and the following Rule, the teacher's salary will be taken as the rate of salary to which he is entitled according to the appropriate Burnham Scale. [380]

7. Supplementary teachers or others earning 36s. per week (£93 12s. per annum) or less who are *non-householders* will also be entitled to *additional* allowances according to the following scale :—

<i>Weekly Salary.</i>	<i>Allowance.</i>	<i>Weekly Salary.</i>	<i>Allowance.</i>
36s.	1s.	28s.	6s. 6d.
35s.	2s.	27s.	7s. 6d.
34s.	2s. 6d.	26s.	8s. 6d.
33s.	3s.	25s.	9s. 6d.
32s.	3s. 6d.	24s.	10s. 6d.
31s.	4s.	23s.	11s. 6d.
30s.	4s. 6d.	22s.	12s. 6d.
29s.	5s. 6d.		

8. Allowances will be continued during periods of absence from billets or other authorised accommodation on official duty; and for a period not exceeding 2 weeks in the case of absence on approved holidays or on sick leave. The teacher is required to notify his Local Authority or Governing Body of absences exceeding this period. [381]

9. As from the 17th June, 1940, teachers who are entitled to free board and lodging in return for residential duties, *e.g.* teachers in camps established by the National Camps Corporation (Board of Education Circular 1496, paragraph 3 (iv)), are eligible to receive allowances under these Rules on the same basis as teachers who are billeted. [382]

10. A teacher renting his own accommodation in the reception area who claims an allowance under Rule 4 or Rule 5 and is paying less than 21s. per week for his commitments (as defined in Rule 4) may, if the cost of his new rent necessarily exceeds what he was paying before evacuation, claim that the excess may be taken into account in determining the amount of his allowance. Under no circumstances, however, can an allowance exceeding 19s. be paid—*i.e.* 14s. plus 5s. in lieu of billeting. [383]

11. The arrangements described in Rules 1—8 and Rule 10 above are to be regarded as in force from 29th January, 1940. Retrospective adjustments should be made where lower rates have been paid under the old Rules and where allowances have been discontinued during temporary absences though they are now payable under Rule 8 in its amended form. [384]

12.\* A teacher who is married or has domestic responsibilities equivalent to those of a married teacher (*e.g.* one who lives with and is mainly responsible for the support of his parents), and who has removed his family or his family and his furniture to rented premises in the reception area between the date of his evacuation and 17th June, 1940, may claim from the Authority or Governing Body responsible for paying his salary.

(a) the 3rd Class single rail fares of his family (not more than one domestic servant moved with the family may be included for this purpose);

(b) reasonable expenditure incurred in removing his furniture.

[385]

13.\* The reasonable cost of furniture removal effected between the date of his evacuation and 17th June, 1940, may also be claimed by an unmarried teacher without domestic responsibilities equivalent to those of a married teacher provided that he has terminated his liability for rent in the evacuation area. [386]

14. A teacher who is eligible to claim repayment under Rule 12 or Rule 13 may also claim to be refunded the reasonable cost of transporting his family or his furniture or both back to the evacuation area, provided that he has been recalled or is recalled in the future by the Authority or Governing Body in the interest of the teaching service and has not himself applied for his recall. [387]

\* Teachers should not assume that the provisions of Rules 12 and 13 will be applied in the case of teachers moving their families or furniture to reception areas in future, and they are strongly advised at present not to undertake such commitments, at any rate without obtaining the prior approval of their Local Education Authority or Governing Body.

15. Under certain conditions reasonable expenditure incurred in removing furniture to store, or in terminating liability for rent in the evacuation area by the payment of a lump sum, may be claimed. Teachers wishing to claim repayment in respect of these items should submit full particulars (including in the latter case the appropriate documents) to their Local Education Authority or Governing Body as the case may be. [388]

16. Teachers may claim the following travelling facilities to their homes : for the 12 months following 29th January last (or the date on which a teacher was evacuated, if that was later), two free return journeys by rail (3rd class) to the terminal station of the area from which he was evacuated (or, provided the cost of such journey is not exceeded, to any other station); and three return journeys under the same conditions at a cost to himself not exceeding the single fare. Not more than one of the free journeys may be claimed during the first six months and not more than one of the single fare journeys may be claimed during the first four months or more than two during the first eight months of the 12 months' period defined above.

Claims may be made for the refund of the 3rd class railway fare, or of the amount by which the return fare exceeds the single fare, as the case may be. Road travel will not be allowed as a substitute for rail travel, but in rural areas the cost of conveyance from the village where the teacher is billeted to the nearest railway station may be allowed where the distance makes it necessary to proceed by bus.

Generally speaking repayment of travelling expenses under this Rule should be made only to teachers who have been evacuated or are likely to remain evacuated for the specified periods; the arrangements would not for instance normally apply where a local Education Authority has organised a system under which teachers serve in relays for comparatively short periods in the reception area. [389]

### *Examples*

(a) Teachers who are billeted or who are receiving free board and lodging in return for residential duties.

1. Married teacher with house costing £65 per annum (25s. per week) in mortgage payments and loan repayments. Allowance due 14s. per week (Rule 4). [390]

2. Married teacher with flat for which he pays a rent of 30s. per week. He has sub-let the flat to a friend for 21s. per week and is, therefore, responsible for a balance of 9s. Allowance due under Rule 4 is 2s. (The difference between 21s. and 9s. is 12s.; this sum has, therefore, to be deducted from the normal householder's allowance of 14s.) [391]

3. Unmarried woman teacher contributing 15s. a week in respect of rent of her mother's house, where she normally lives. She is entitled to be treated as a householder under Rule 5 (a). Allowance payable is, therefore, 8s. (14s. less 6s.). [392]

4. Unmarried woman teacher, sharing flat with friend. Each has contracted to pay half the rent, which amounts to 33s., i.e. 16s. 6d. a week. She is entitled to be regarded as a householder under Rule 5 (b); allowance due is, therefore, 9s. 6d. (The difference between 21s. and 16s. 6d. is 4s. 6d., which has to be deducted from the normal householder's allowance of 14s.) [393]

5. Unmarried man teacher, Burnham Scale IV salary £192, normally lives with his older sister in house owned by sister, who has children and very small income of her own. Brother, since death of sister's husband, contributes 19s. a week to sister.

His contribution exceeds 16s. by 3s. (see Rule 6); but his salary falls between £189 16s. and £192 8s. so maximum allowance is, therefore, 2s.

If this teacher, in addition to his contribution of 19s., was making and continues to make a payment of, say, 10s. in respect of his parents' rent, this additional contribution could also be taken into account under Rule 5 (a). His total weekly allowance would then be increased by a further 3s., so that he would receive 5s. in all. [394]

6. Laboratory Assistant employed by Governing Body of an evacuated secondary school, wages 33s. per week. Under Rule 7 he will be entitled to an allowance of 3s. per week. If he is already contributing 16s. or more to relatives under Rule 6 or is making a contribution under Rule 5 (a) he will be entitled to additional sums under those Rules. [395]

(b) Teachers who have made their own approved arrangements for accommodation.

7. Unmarried woman teacher with no continuing obligations in evacuation area. Allowance payable is 5s. per week (in lieu of billeting allowance)—See Rule 2.

8. Married man teacher paying rent of £90 per annum for house at home. Allowance is, therefore, 5s. plus 14s., *i.e.* 19s. a week (Rules 2 and 4). [396]

9. A teacher pays rent in the evacuation area amounting to 15s. per week and is renting his own accommodation in the reception area. He is eligible under Rules 2 and 4 for an allowance of 5s. plus 8s., *i.e.* 13s. in all. He is, however, unable to find suitable accommodation in the reception area for less than 20s. per week; so he is entitled to claim an additional allowance of 5s. (the difference between his rent in the reception and evacuation areas) bringing his allowance up to 18s. in all (Rule 10). [397]

### CLAIM FORM

#### ALLOWANCES AND SPECIAL PAYMENTS FOR TEACHERS AND OTHER TRANSFERRED STAFF

To be completed by teachers and other transferred staff in the employment of evacuation authorities wishing to claim allowances or payments under the terms of the Board of Education Circulars Nos. 1501 and 1502, and Ministry of Health Circulars Nos. 1978 and 2012, as amended by Board of Education Circular 1513 and Ministry of Health Circular 2048.

1. FULL NAME .....  
(Block letters, surname first.)
2. SCHOOL (in evacuation area)<sup>1</sup> .....  
NATURE OF EMPLOYMENT (if not a teacher)<sup>1</sup> .....
3. (a) SALARY..... (b) SALARY SCALE<sup>2</sup>.....  
(c) INCREMENTAL DATE .....

<sup>1</sup> Delete where not applicable.

<sup>2</sup> E.g. Certificated assistant, Scale IV.

4. (a) DATE BILLETED OR EVACUATED .....  
 (If subsequent to 28th January, 1940.)  
 (b) DATE OF RETURN.....  
 (If no longer in reception area.)

5. ADDRESS OF BILLET<sup>1</sup> .....  
 ADDRESS OF OTHER ACCOMMODATION IF NOT BILLETED<sup>1</sup>  
 .....

6. WHETHER MARRIED OR UNMARRIED .....

7. (To be completed by householders—see Rules 3 and 4 of the Rules for Payment accompanying this form.)

I am a householder as defined in Rule 3 and am unable at present to obtain release from my existing liabilities in respect of :

$$\left. \begin{array}{l} \text{house}^1 \\ \text{flat}^1 \\ \text{rooms}^1 \end{array} \right\} \text{ at (give address) } \left\{ \begin{array}{l} ..... \\ ..... \\ ..... \end{array} \right.$$

which amount to.....per week net (after making allowance for any receipts from sub-letting, etc.).

8. (The appropriate section or sections to be completed by non-householders—see Rules 5, 6 and 7.)

(a) I am liable (as defined in Rule 5) to make and am making regular payments of .....s. per week to.....  
 (name and address) in respect of rent, mortgage payments, rates or similar charges and I am unable at present to terminate these.  
 (STATE REASONS BRIEFLY.).....  
 .....

(b) I was living with my parent or near dependent relatives before evacuation and was contributing.....s. per week, and because of their financial circumstances I am now regularly contributing a sum of .....s. per week (see Rule 6).

(c) My salary, which does not exceed 36s. per week (£93 12s. per annum), amounts to.....and as a non-householder I claim to be entitled to an additional allowance of.....under Rule 7.

9. (To be completed by all billeted teachers claiming allowances—or by teachers receiving free board and lodging in return for residential duties.)

I CLAIM that I am entitled under the terms set out in the Rules for Payment accompanying this form to receive an allowance of .....s. per week.

Signature .....  
 Date .....

10. (To be completed by teachers who are not billeted (see Rule 2) and wish to claim allowances.)

I CLAIM that I am entitled under the terms set out in the Rules for Payment accompanying this form to receive

(a) 5s. per week in lieu of being billeted.<sup>1</sup>

(b) 5s. per week in lieu of being billeted and an allowance of .....s. weekly. (Full details should be given if a claim is made under Rule 10.)<sup>1</sup>

I enclose an appropriate certificate from the reception authority (see Rule 2).

Signature .....  
 Date .....

<sup>1</sup> Delete where not applicable.

11. (The appropriate section or sections to be completed by teachers who wish to claim travelling expenses for their families to the reception area or back again, or both, or the cost of furniture removal—see Rules 12–14.)

(a) I am married or have equivalent domestic responsibilities. My family consisting of.....  
 .....  
 travelled from.....to.....  
 to join me at the address given overleaf on (give date).....  
 and I wish to reclaim their travelling expenses amounting to  
 £.....s.....d.

I wish also to claim the cost of removing my furniture (give date on which this was done.....), viz. £.....s.....d., and enclose a receipted account for this amount.

(b) I am married or have equivalent domestic responsibilities and wish to claim the cost of removing my furniture (give date on which this was done.....), viz. £.....s.....d., and I enclose a receipted account for this amount.

(c) I am unmarried and have terminated my commitments as a householder in the reception area. I removed my furniture to the reception area on ..... at a cost of £.....s.....d. I wish to claim this amount and I enclose a receipted account.

(d) I have been recalled (not at my own request) for service in the evacuation area, and I wish to claim the following expenses under Rule 14 (give particulars) :—  
 .....  
 .....  
 .....

12. (To be completed in all cases.)

I DECLARE that the above particulars are correct to the best of my knowledge and belief, and I undertake to inform the Local Education Authority or Body responsible for paying my salary if there is any change in my circumstances which may affect the rate of the allowance paid to me. I also undertake to inform them of any absences of 15 days or more during which I may be absent from my billet as defined in Rule 8. [398]

Signature .....

Date .....

## ELECTIONS

STATUTES :—

Local Elections and Register of Electors (Temporary Provisions) Act, 1940 — 137

## STATUTES

### THE LOCAL ELECTIONS AND REGISTER OF ELECTORS (TEMPORARY PROVISIONS) ACT, 1940

(4 & 5 Geo. 6, c. 3)

*An Act to continue in force the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, with certain amendments, and to make provision for safeguarding the rights of contributory employees*

*and local Act contributors-as defined by the Local Government Superannuation Act, 1937, and the Local Government Superannuation (Scotland) Act, 1937, in respect of remuneration lost in consequence of the first-mentioned Act.* [399] [19th December 1940.]

**1. Continuance with amendments of 2 & 3 Geo. 6, c. 115.**—The Local Elections and Register of Electors (Temporary Provisions) Act, 1939, shall have effect subject to the amendments set out in the Schedule to this Act, and, as so amended, shall continue in force until the thirty-first day of December nineteen hundred and forty-one and no longer unless Parliament otherwise determines. [400]

By s. 10 (2) of the Act of 1939 (32 Statutes 1234) that Act was to expire with the 31st December, 1940.

**2. Provision as to superannuation rights of contributory employees.**—

(1) Any contributory employee or local Act contributor who received in respect of work done by him in the standard year as returning officer at a local election other than an election to fill a casual vacancy, or in connection with the preparation of a register of electors or juror's book remuneration, otherwise than as part of an inclusive salary continuing to be received by him, shall be entitled to contribute a sum in respect of that remuneration to the appropriate superannuation fund in respect of any year, whether before or after the passing of this Act in which by reason only of the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, being in force he is not required to do such work; and for the purpose of computing in accordance with the provisions of section eight of the Local Government Superannuation Act, 1937, the average remuneration of any contributory employee or of calculating the superannuation allowance of any local Act contributor under a local Act scheme, he shall be deemed to have received in respect of service tendered in any year in respect of which such contributions were made by him the remuneration by reference to which the contributions were calculated.

(2) In this section the expressions "contributory employee", "local Act contributor", "local Act scheme" and "appropriate superannuation fund" have the same meanings respectively as in the Local Government Superannuation Act, 1937, except that in relation to a local Act contributor the last mentioned expression means the superannuation fund in the benefits of which he is entitled to participate; and the expression "standard year" means, in relation to work done by any person as returning officer at a local election, the last year before the year nineteen hundred and forty in which such work was done by him, and, in relation to work done by any person in connection with the preparation of a register of electors or juror's book, the year nineteen hundred and thirty-nine.

(3) In the application of this section to Scotland references to the Local Government Superannuation (Scotland) Act, 1937, shall be substituted for references to the Local Government Superannuation Act, 1937. [401]

For s. 8 of the Local Government Superannuation Act, 1937, see 30 Statutes 394. Payments are made on a statutory scale for services as Registration officer and for services at elections.

**3. Short title.**—This Act may be cited as the Local Elections and Register of Electors (Temporary Provisions) Act, 1940. [402]

## SCHEDULE

## Section 1

The provisions of the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, specified in the first column of this Schedule shall have effect subject to the amendments specified in the second column of the said Schedule.

Section three ... At the end of the section there shall be inserted the following subsection :—

“(2) While this Act is in force, section eleven of the Parliamentary and Municipal Registration Act, 1878, and Rule 28 contained in the First Schedule to the Representation of the People Act, 1918, shall not have effect.”

Section eight ... In paragraph (a) for the words “town council” where those words first occur there shall be substituted the words “county town or district council”, and for the words “a town council” there shall be substituted the words “any such council”.

After paragraph (a) there shall be added the following paragraph—

“(aa) section one of this Act shall have effect as if in paragraph (b) of the proviso thereto, there were inserted after the word ‘occurred’ the following words :—  
“or, in the case of a councillor being a member of a county council representing a burgh, by the council of that burgh.”

Section ten ... For the proviso to subsection (2) there shall be substituted the following proviso :—

“Provided that, the term of office of any alderman, councillor or elective auditor in office at the date of the expiry of this Act by virtue of the provisions of this Act or of anything done thereunder shall, unless Parliament otherwise determines, continue for six months after that date as if this Act had not expired”.

[403]

For s. 11 of the Parliamentary and Municipal Registration Act, 1878, see 7 Statutes 462. This section provides for returns by Registrars of births and deaths of particulars of deaths to Registration officer. Rule 28 of the 1st Schedule to the Act of 1918 (7 Statutes 578) deals with the copies of the register to be supplied by the Registration officer.

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## ELECTRICITY COMMISSIONERS

*See ELECTRICITY SUPPLY.*

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## ELECTRICITY SUPPLY

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## ORDERS, CIRCULARS AND MEMORANDA

### CENTRAL ELECTRICITY BOARD (CIVIL DEFENCE) BORROWING REGULATIONS, 1940 \*

*S. R. & O., 1940, No. 530*

*March 28, 1940*

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Whereas by Section 42 in Part V (Public utility undertakings) of the Civil Defence Act, 1939, it is enacted that the provisions of Part I of the First Schedule to that Act shall have effect with respect to the financing of certain expenditure of the Central Electricity Board under Part V of that Act and the said Schedule; and that the expression "the principal section" used in that Schedule means the said Section 22.

And whereas the following is an extract from the said First Schedule :—

## FIRST SCHEDULE

### PART I

#### *Financing of Certain Expenditure of Central Electricity Board and Distribution of Burden thereof among Electricity Undertakers*

1. There shall be established a fund under the control of the Central Electricity Board (hereinafter in this Schedule referred to as "the fund"). [404]

\* \* \* \* \*

3.—(1) For the purpose of defraying any expenses in respect of which a grant is payable under the principal section out of moneys provided by Parliament, and of providing a working balance for the fund, the Central Electricity Board may, with the consent of the Electricity Commissioners and in accordance with regulations made by the Minister of Transport with the approval of the Treasury, borrow money in such manner, and subject to such provisions with respect to the repayment thereof and with respect to reborrowing for the purpose of paying off a loan previously raised, as may be prescribed by the regulations; and the regulations may empower the Board to borrow temporarily from banks or otherwise, and may apply with or without modifications any enactment relating to borrowing by any local authority:

Provided that except with the consent of the Treasury the Board shall not have power to borrow under this paragraph, otherwise than for the purpose of paying off loans previously raised thereunder, more than the aggregate of amounts sufficient to raise one million five hundred thousand pounds.

(2) The Board shall not have power under section twenty-seven of the Electricity (Supply) Act, 1926, to borrow for any of the purposes for which they may borrow under this paragraph.

(3) The Board may, for the purpose of raising money which they are authorised to borrow under this paragraph, create and issue stock.

(4) Any stock created under this paragraph by the Board shall be issued, transferred, dealt with and redeemed in accordance with regulations made by the Minister of Transport with the approval of the Treasury; and any such regulations may apply for the purposes of this paragraph, with or without modifications, any provisions of the Local Loans Act, 1875, or of any enactment relating to stock issued by a local authority.

(5) The principal and interest of any sums borrowed by the Board under this paragraph (including any stock and the interest thereon) shall be charged upon so much of the payments which under paragraph 5

of this Part of this Schedule the Commissioners are required to make to the Board as represents the sums required for interest and sinking fund charges. [405]

\* \* \* \* \*

6.—(1) The Electricity Commissioners shall pay to the Board—

- (a) the sums required to meet the interest and sinking fund charges in respect of any loans raised by the Board under paragraph 3 of this Schedule; and
- (b) the amount of any expenses incurred by the Board under subsection (1) of the principal section (not being expenses of a capital nature) and in administering the fund, in so far as the expenses are not defrayed out of the working balance of the fund raised by borrowing,

and the payments which the Commissioners are required by this paragraph to make in any financial year shall be treated as part of their expenses but shall be shown as a separate item in their accounts and in their demand notes for contributions towards their expenses:

Provided that the apportionment of the expenses of the Commissioners by way of such payments as aforesaid shall, instead of being made in accordance with section seven of the Electricity (Supply) Act, 1922, be made on the basis of revenue received from the sale of electricity, other than electricity sold in bulk to authorised undertakers.

(2) Subsection (1) of section twenty-nine of the Electricity Supply Act, 1919 (which requires the Electricity Commissioners at the beginning of each financial year to prepare an estimate of their receipts and expenditure during the year) shall have effect as if it enabled the Commissioners, in respect of any financial year, to prepare, and submit for approval by the Minister of Transport, supplementary estimates of the expenses of the Commissioners in making such payments; and the reference in subsection (2) of that section to the estimated expenses of the Commissioners shall be construed as including a reference to the expenses shown in any such supplementary estimate as aforesaid.

Now therefore, in exercise of the powers conferred upon him by Section 42 of and the First Schedule to the Civil Defence Act, 1939 (which provisions are hereinafter called "the Act") and any and every other power thereunto him enabling the Minister of Transport with the approval of the Treasury hereby makes the following Regulations (hereinafter referred to as "the Regulations") and does hereby order and prescribe that the Regulations shall apply to the exercise by the Central Electricity Board (hereinafter called "the Board") of the powers of borrowing conferred by the Act and to the issue, transfer, dealing with and redemption of stock created by the Board thereunder. [406]

## PART I

### PRELIMINARY.

ARTICLE 1. **Citation.**—The Regulations may be cited as "The Central Electricity Board (Civil Defence) Borrowing Regulations, 1940." [407]

**ARTICLE 2. Division of Regulations into Parts.**—The Regulations are divided into Parts as follows :—

Part I.—Preliminary.

Part II.—Borrowing of Money.

Part III.—Stock.

Part IV.—Mortgages and Bonds.

Part V.—Interest.

Part VI.—Repayment of Borrowed Money and Redemption of Securities.

Part VII.—Registrars, Transfer of Securities, etc.

Part VIII.—Miscellaneous. [408]

**ARTICLE 3. Interpretation.**—In the Regulations the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely :—

The expression “ the Minister ” means the Minister of Transport.

The expression “ the Commissioners ” means the Electricity Commissioners.

The expression “ statutory borrowing power ” means any power of borrowing or re-borrowing money conferred on the Board by the Act or the Regulations.

The expression “ statutory security ” means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or other local authority as defined by Section 34 of the Local Loans Act, 1875, or Section 4 of the Local Authorities (Loans (Scotland) Act, 1891, as amended by Section 5 of the Local Authorities Loans (Scotland) Act, 1891, Amendment Act, 1893, as the case may be, other than securities issued by the Board under the Act and the Regulations and annuities rent charges and securities transferable by delivery.

The expression “ stock ” means Electricity (Civil Defence) Stock created by the Board under the Act, whether issued as registered stock or inscribed stock.

The expression “ registered stock ” means stock transferable by an instrument in writing.

The expression “ inscribed stock ” means stock transferable only by an entry in transfer books kept for the purpose.

The expression “ bonds ” includes bonds and mortgage bonds or mortgage debentures created and issued by the Board under the Act and the Regulations.

The expression “ security ” means (except where otherwise expressly stated) any stock or bond issued or any mortgage granted by the Board in the exercise of any statutory borrowing power.

The expression “ the Electricity (Civil Defence) Fund ” means the fund established under the control of the Board in pursuance of the Act.

The expression “ prescribed period ” means the period or periods determined by the Commissioners or the Regulations within which

provision is required to be made for the repayment of money borrowed in the exercise of any statutory borrowing power.

The expression "loan charges levy" means the payments which the Commissioners are required by paragraph 5 of Part I of the First Schedule to the Civil Defence Act, 1939, to make to the Board to meet the interest and sinking fund charges in respect of any loans raised by the Board under paragraph 3 of that Schedule. [409]

**ARTICLE 4. Application of Interpretation Act, 1889.**—The Interpretation Act, 1889, shall apply for the purpose of the interpretation of the Regulations in like manner as it applies for the purpose of the interpretation of an Act of Parliament. [410]

## PART II

### BORROWING OF MONEY

**ARTICLE 5. Particulars of borrowing to be furnished to the Commissioners.**—Whenever the Board make application for the consent of the Commissioners to the borrowing of money under the Act they shall furnish to the Commissioners such particulars of the amount purpose nature and circumstances of the proposed borrowing as the Commissioners may require. [411]

**ARTICLE 6. Mode of raising money.**—In addition to issuing stock for the purpose of raising money which they are authorised to borrow under the Act the Board may, subject to the Regulations, grant or issue and renew mortgages and bonds. [412]

**ARTICLE 7. Period for repayment of money borrowed.**—The Board shall make provision for the repayment of all money borrowed by them in accordance with the Regulations within the prescribed period. [413]

**ARTICLE 8. Temporary borrowing by the Board.**—(1) The Board may from time to time for the purpose of providing temporarily for any current expenses properly incurred by them under the Act borrow by way of temporary loan or overdraft from any bank or otherwise such sums as they may from time to time require.

Any amount so borrowed together with the interest thereon shall be repaid within a period of twelve months or such extended period as the Minister may allow.

(2) The Board may, until provision can from time to time be made for raising money in any other manner provided by the Regulations, borrow temporarily for the purpose of any statutory borrowing power any sum or sums from any bank or otherwise on such terms conditions and security and in such form as may be agreed, and any money so borrowed shall be repaid out of money duly raised in such other manner within a period of twelve months from the date of the temporary borrowing or such extended period as the Minister may allow.

(3) The provisions of the Regulations as to borrowing and the repayment of money borrowed shall not apply to money borrowed under this Article. [414]

**ARTICLE 9. Power to re-borrow.**—(1) The Board shall have power to borrow—

(a) for the purpose of paying off any money previously borrowed by them under the Act which is intended to be forthwith repaid ;  
or

- (b) in order to replace money which during the previous twelve months has been temporarily applied from the Electricity (Civil Defence) Fund in repaying money previously borrowed in accordance with the Regulations and which at the time of such repayment it was intended to replace by borrowed money.

(2) Any money borrowed under this Article shall for the purpose of repayment be deemed to form part of the original loan, and shall be repaid within that portion of the prescribed period applicable to that loan which remains unexpired and the provisions which are for the time being applicable to the original loan shall apply to the money borrowed under this Article.

Provided that the Board shall not have power to borrow for the purpose of making any payment to a sinking fund or of paying any annual or other instalment of principal which has or may become due in respect of borrowed money, or in order to replace any money previously borrowed which has been repaid—

- (a) by instalments or annual payment ; or
- (b) by means of a sinking fund ; or
- (c) out of money derived from the sale of land ; or
- (d) out of any capital money properly applicable to the purpose of the repayment other than money borrowed for that purpose.

[415]

**ARTICLE 10. Application of money borrowed.**—Money raised by the issue or grant under the Act of any security shall be applied to purposes for which money authorised to be raised under the statutory borrowing power in exercise whereof the security is issued or granted ought by law to be applied.

Provided that if, after the raising of any money by the issue or grant under the Act of any security it is found that any part of that money is not required for the purposes for which it was raised the Board shall carry the same to the credit of the Redemption Fund Account to be created as hereinafter mentioned in respect of the security issued or granted or apply it in the repayment of money already borrowed or raised under the Act for other capital purposes. [416]

**ARTICLE 11. Temporary investments.**—The Board may from time to time invest temporarily in statutory securities any sum raised by the issue or grant under the Act of any security and not for the time being required for the purpose for which it was raised. [417]

### PART III

#### STOCK

**ARTICLE 12. As to issue of stock.**—(1) All stock issued by the Board under the Act shall be redeemable stock and shall be created by and issued in pursuance of a resolution or resolutions passed by the Board.

(2) The Board may issue such class or classes of stock as they may determine, but each class of stock shall have a distinctive title and shall be issued on the terms and subject to the conditions that all stock at any time belonging to that class shall bear one and the same rate of interest, shall become redeemable at the same time and shall in all other respects (except mode of transfer) be of the same character.

(3) Subject to the provisions of the Act and the Regulations stock may be issued for such amount at such price and at such rate of interest as the Board may determine. [418]

**ARTICLE 13. Redeemability of stock.**—(1) Except in exercise of the power conferred by Article 25 hereof stock shall be redeemed at the expiration of such period as the Board may with the approval of the Minister, determine and may be redeemed at the option of the Board at any time after the expiration of such shorter period as the Board may determine. The periods so determined shall be specified in every resolution for the creation of stock of the particular class to which the resolution relates.

(2) No stock shall be liable to be redeemed before the expiration of the latest date for repayment mentioned in the resolution creating the stock unless at least three months' notice of intention to redeem the same shall have been given. [419]

**ARTICLE 14. Expenses of issue of stock.**—The Board in the exercise of a statutory borrowing power may create and issue stock for the purpose of defraying the expenses of the creation and issue of any stock, and shall provide for the redemption of any stock created and issued in pursuance of this Article within the period expiring on the earliest date on which the stock in respect of which the said expenses are incurred may be redeemed. [420]

**ARTICLE 15. Issue of stock at discount.**—Where stock is issued at a price lower than that at which it is to be redeemed the difference between the price of issue and the price of redemption shall for the purposes of the Regulations be treated as a loan authorised by a statutory borrowing power repayable within the period expiring on the earliest date on which the said stock may be redeemed. [421]

## PART IV

### MORTGAGES AND BONDS

**ARTICLE 16. Form of mortgage.**—(1) Subject to the provisions of the Regulations every mortgage granted by the Board under the Act shall be by deed duly stamped truly stating the consideration and the time and place of payment, and shall be sealed with the common seal of the Board and may be made in the form contained in the Schedule to the Regulations or to the like effect.

(2) No mortgage shall be granted by the Board for a period of less than ten years and no extension of the term of any mortgage shall be for a period of less than ten years. [422]

**ARTICLE 17. Form of bonds.**—(1) Bonds issued by the Board under the Act and the Regulations shall be called "Electricity (Civil Defence) Bonds" or "Electricity (Civil Defence) Mortgage Bonds" or "Electricity (Civil Defence) Mortgage Debentures" as the case shall require.

(2) Bonds and applications for bonds shall be for amounts of five, ten, twenty, fifty or one hundred pounds or multiples of one hundred pounds.

(3) The principal money and interest for which bonds are issued by the Board under the Act and the Regulations shall be secured on the

covenant of the Board to repay the same out of the Electricity (Civil Defence) Fund and the principal money and interest secured by any bonds or class of bonds as aforesaid may in addition be secured by a trust deed.

(4) The principal money secured by a bond shall be repayable at such date within the prescribed period as may be specified in the bond being not less than five years from the date of the bond. [423]

## PART V

### INTEREST

#### ARTICLE 18. Maintenance and use of Interest Fund Account.—

(1) For the payment of the interest on the securities issued or granted by the Board under the Act and the Regulations there shall in each year be carried to accounts of the Electricity (Civil Defence) Fund entitled Interest Fund Accounts a sum or sums equal in the aggregate to the amount of all interest payable or accrued due during the year.

(2) There shall be a separate Interest Fund Account, distinguished by a number or otherwise, for each class of security.

(3) The Board shall from time to time pay the interest on each security and charge the same to the appropriate Interest Fund Account. [424]

ARTICLE 19. Dates for payment of interest.—Interest on each security shall be paid at each half-yearly or other intervals and on such days as on the issue or grant thereof the Board shall prescribe. [425]

ARTICLE 20. Interest to executors, etc.—Neither the Board nor any Registrar to be appointed as hereinafter provided shall be required to pay any executors or administrators any interest on any security held by their testator or intestate until the probate of the will or the letters of administration has or have been left with the appropriate Registrar for registration. [426]

ARTICLE 21. Evidence of title.—The appropriate Registrar before paying any interest on any security may, if the circumstances of the case appear to him to make it expedient, require evidence of the title of any person claiming a right to receive the interest, and that evidence shall be a statutory declaration of competent persons or of such other nature as such Registrar, with the approval of the Board, may require. [427]

ARTICLE 22. Method of paying interest.—(1) Except so far as may be otherwise directed by any holder of a security interest on his security shall be paid by means of warrants sent through the post. Such warrants when sent by post shall subject as hereinafter provided be sent to the registered address of such holder or in the case of joint registered holders (except where otherwise directed by all such holders) to the registered address of that one of them whose name stands first on the register in respect of the security in question : Provided that :—

(a) where the registered address of any such holder is outside the United Kingdom and the Irish Free State such holder shall furnish to the Registrar an address within the United Kingdom or the Irish Free State to which the warrants are from time to time to be sent ; and

(b) the registered holder may by writing under his hand direct that the interest on his security shall be sent to some other address within the United Kingdom or the Irish Free State and thereupon the warrant shall be sent accordingly.

(2) The posting by the appropriate Registrar or an officer of the Registrar or of the Board of a warrant for interest in a pre-paid letter directed to such an address as heretofore mentioned shall be a good discharge to the Board for such interest.

(3) Every warrant so sent by post shall be deemed to be a cheque and the Board and the appropriate Registrar shall in relation thereto be deemed to be bankers within the Bills of Exchange Act, 1882.

(4) Where two or more joint registered holders of any security have given a direction as to the payment of interest thereon, and one of them becomes of unsound mind, such direction shall not thereby become void. [428]

**ARTICLE 23. Unclaimed interest.**—(1) If at any time any interest on any security is unclaimed at the time for payment thereof the same shall, nevertheless, on demand at any subsequent time be paid to the person showing his right to recover the same, but without interest in the meantime.

(2) Where any interest remains unclaimed for three years from the time for payment thereof, the Board shall cause notice thereof to be sent by post in a registered letter addressed to the holder of the security named in the register relating thereto, by the description and at the address therein appearing, and so at the expiration of a further period of three years if the same still remains unclaimed.

(3) When any interest on any security has been unclaimed for six years and upwards, the Board may apply the amount then accrued due and all interest subsequently accruing to such purposes as the Minister may approve without prejudice nevertheless to the rights of any persons to recover the said interest. [429]

## PART VI

### REPAYMENT OF BORROWED MONEY AND REDEMPTION OF SECURITIES

**ARTICLE 24. Redemption Fund Accounts.**—(1) For the redemption and repayment of all money borrowed in exercise of a statutory borrowing power, there shall be carried in each year of the prescribed period to accounts of the Electricity (Civil Defence) Fund entitled "the Redemption Fund Accounts" a sum or sums for paying off such money and for redeeming or purchasing and extinguishing the security or securities issued in respect thereof.

(2) There shall be a separate Redemption Fund Account distinguished by a number or otherwise for each security or class of security. Each such Account is hereinafter referred to as "the Redemption Fund Account."

(3) The sums to be carried to the Redemption Fund Account shall be either

(a) equal yearly or half-yearly sums sufficient without accumulations to repay the money to which the Account relates within the prescribed period, or

(b) equal yearly sums which, if accumulated at compound interest at a rate not exceeding three pounds per centum per annum or at such other rate as the Board, with the consent of the Minister, may from time to time determine, would be sufficient to pay off the money to which the account relates within such period, and in addition thereto a sum equivalent to interest on the amount from time to time standing to the credit of the Account at the rate per centum per annum on which the aforesaid equal yearly sums are based.

(4) The first contribution to the Redemption Fund Account shall be made within twelve months, or, when the money is repaid by half-yearly instalments, within six months from the commencement of the prescribed period. [430]

**ARTICLE 25. Application of sums in Redemption Fund Accounts.—**

(1) The Board may from time to time apply the whole or any part of any sums standing to the credit of any Redemption Fund Account in redeeming according to the terms of issue, the security to which the Account relates, or in purchasing the security, or for both purposes.

(2) Pending, or in default of, or to the extent to which the Board shall not have made any application of the said amount in manner aforesaid or in the manner authorised by Article 27 hereof the Board shall invest the said amount in statutory securities and the net annual proceeds arising from every such investment shall be carried to the Electricity (Civil Defence) Fund and applied in reduction of the sums which the Commissioners are required by paragraph 5 of Part I of the First Schedule to the Civil Defence Act, 1939, to pay to the Board to meet the interest and sinking fund charges in respect of any loans raised by the Board under paragraph 3 of that Schedule.

(3) Where the sums to be carried to a Redemption Fund Account have been calculated in the manner provided by paragraph (3) (b) of the last preceding Article and money standing to the credit of that Account has been applied in manner provided by paragraph (1) of this Article, the Board shall carry to the credit of the Account each year an additional sum equivalent to the interest which would have been produced by the money so applied if invested at the rate per centum per annum on which the equal yearly payments to the Account are based.

[431]

**ARTICLE 26. Provision for adjustment of Redemption Fund Accounts.—**

(1) If it appears to the Board at any time that the amount standing to the credit of or the investments representing any Redemption Fund Account, together with the future yearly sums to be carried to the Account under the Regulations, will probably not be sufficient within the prescribed period to make up a sum equal to the amount required to redeem the security to which the Account relates, the sums to be carried to the Account shall be increased annually or otherwise to such extent as will make up the deficiency and if it appears to the Minister that any such increase is necessary the Board shall increase the sums to be carried to the Account to such extent as the Minister may direct.

(2) If the Board desire to accelerate the repayment of the loan to which any Redemption Fund Account relates they may, with the approval of the Minister increase, annually or otherwise, the sums to be carried to the Account.

(3) If it appears to the Board at any time that the amount standing to the credit of or the investments representing any Redemption Fund Account together with the future yearly sums to be carried to the Account under the Regulations will probably be more than sufficient within the prescribed period to make up a sum equal to the amount required to redeem the security, the sums to be carried to the Account may be reduced, either temporarily or permanently, to such extent as the Minister may allow.

(4) If at any time the total amount carried to the credit of and the investments representing any Redemption Fund Account will, in the opinion of the Minister, probably be sufficient within the prescribed period to make up the amount required to redeem the security, the Board may, for so long as the Minister may allow, cease to carry any further sums to the Account.

(5) Any surplus standing to the credit of any Redemption Fund Account after the redemption or purchase of the security and the discharge of the whole of the money to which the Account relates, shall be applied in like manner to that required by sub-paragraph (2) of paragraph 2 of Part II of the First Schedule to the Civil Defence Act, 1939. [432]

**ARTICLE 27. Use of money in Redemption Fund Accounts instead of borrowing.**—For the purpose of exercising any statutory borrowing power either wholly or partially the Board may, with the consent of the Minister, instead of raising money in accordance with the Regulations, employ any money for the time being standing to the credit of any Redemption Fund Account and sell and employ the proceeds of any securities in which the last mentioned money is for the time being invested.

Provided that no money standing to the credit of a Redemption Fund Account shall be so employed unless provision is made for replacing the same, together with any loss of interest occasioned by reason of so employing such money, at or before the date at which the security redeemable by means of such money is required to be redeemed and within a period not exceeding that within which provision would have had to be made for the repayment of such money if the same had been raised by the creation and issue of an additional security. [433]

**ARTICLE 28. Subsidiary provisions as to Redemption Fund Accounts.**—(1) In any year when money, standing to the credit of the Redemption Fund Account relating to any stock or bonds, is applied in the purchase of stock or bonds of the class to which the Account relates, at a rate exceeding the redemption price of such stock or bonds, the Board shall carry to that Account during the year in which the purchase is made an additional sum or sums equal in amount to the sum or sums so paid in excess.

(2) Where the Board redeem or purchase any stock or bonds by the application of money standing to the credit of the Redemption Fund Account relating thereto, the stock or bonds so redeemed or purchased shall be deemed to be a security issued in respect of such one or more of the statutory borrowing powers exercised by the creation and issue of the security and, if in respect of more than one, in such proportions, as the Board may determine subject to the approval of the Minister, after consultation with the Treasury. Provided that no larger amount of stock or bonds shall be deemed to be redeemed or purchased

in respect of any statutory borrowing power than the amount which, according to the actual price of redemption or purchase, could be redeemed or purchased with the money carried to the Redemption Fund Account in respect of that borrowing power.

(3) Where the Board in the exercise of a statutory borrowing power create and issue or grant any security for the purpose of re-borrowing money or of redeeming any security they shall make such adjustments (if any) as may be necessary in the Redemption Fund Accounts. [434]

**ARTICLE 29. Extinction of securities redeemed or purchased.**—Any security redeemed or purchased by the Board shall by virtue of the Regulations be extinguished. [435]

**ARTICLE 30. Unclaimed security.**—(1) If at the end of a period of ten years after the date (hereinafter referred to as “the date of redemption”) at which any class of security is to be redeemed, the Board, by reason of the holder of any security of that class not being forthcoming or by reason of any doubt as to the ownership of any such security, shall not have been able to redeem the security, the Board shall invest in statutory securities a sum equal to the amount required to redeem the security which cannot be redeemed by reason as aforesaid, and thereupon the security shall be deemed to have been extinguished.

(2) Any investments by the Board as aforesaid shall, unless realised for the purpose of satisfying any claim in respect of the security represented by the same, be kept invested and the income therefrom shall be invested in statutory securities for a further period of ten years after which time the Board may apply the said sum and the accumulations thereof to such purposes as the Minister may approve, without prejudice nevertheless to the rights of any persons to recover the said sum and accumulations. No interest shall accrue or be payable by the Board on any unclaimed security in respect of any period subsequent to the date of redemption of such security. [436]

## PART VII

### REGISTERS, TRANSFER OF SECURITIES, ETC.

**ARTICLE 31. Appointment of Registrars.**—The Board shall before making each issue of stock or bonds and before granting any mortgage under the Act, appoint and thereafter keep appointed on such terms and subject to such conditions and instructions not inconsistent with the Regulations as they think expedient, an officer of the Board or any other persons or the Bank of England or any banking or other company as Registrar of the stock or bonds to be issued or as Registrar of mortgages for all or any of the purposes of the Regulations. The general practice of the Bank of England shall apply to all securities issued under the Regulations of which they are the Registrar. [437]

**ARTICLE 32. Registers of securities.**—Each Registrar shall keep books relating to each class of security for which he is appointed Registrar (hereinafter referred to as “the register”) in which shall be entered:—

(a) in the case of stock—

the name, address and description of each holder from time to time of stock of the class to which the register relates and the amount held by him;

(b) in the case of mortgages—

(i) the names, addresses and descriptions of the parties to each mortgage, the number and date thereof, the amount for which the same is granted and particulars of the property mortgaged : and

(ii) the date of registration of each mortgage and the date on which the same is paid off ;

(c) in the case of bonds—

the name, address and description of each holder from time to time of bonds of the class to which the register relates, a statement of the amount of the bonds held by him, the periods for which they are issued, and, the property (if any) on which they are charged : and, if the bonds are secured by a trust deed, the numbers and dates of the certificates issued to him as hereinafter provided, or, if the bonds are not so secured, the number of each bond held by him, and the date of registration of each bond and the date on which the same is paid off.

[438]

**ARTICLE 33. Certificates of registered stock and bonds secured by trust deed.**—On the registration of stock or of bonds secured by a trust deed, the appropriate Registrar shall issue to the holder of the stock or bonds a certificate of the proprietorship of such stock or bonds (as the case may be), and such certificate shall be *prima facie* evidence of the title of the person named therein. [439]

**ARTICLE 34. Right to transfer securities.**—Subject to the Regulations and to the terms on which the security is issued the holder of any security may transfer the same in whole or in part, except that no mortgage or bond not secured by a trust deed shall be transferred in part, and no part of a bond secured by a trust deed shall be transferred which is not of an amount for which a bond may be issued by the Board. [440]

**ARTICLE 35. Transfer of inscribed stock.**—(1) The Registrar of inscribed stock shall keep books (hereinafter referred to as “ the stock transfer books ”) wherein transfers of inscribed stock shall be entered.

(2) Every such entry shall be framed in proper words for the purpose of transfer, and shall be signed by the person or persons making the transfer or by his or their agent lawfully authorised in writing under power of attorney in a form prepared, and executed as required, by the Registrar of inscribed stock.

(3) The person to whom a transfer of inscribed stock is made, may, if he thinks fit, underwrite his acceptance thereof.

(4) Except as otherwise provided by Act of Parliament, or by any regulations to be hereafter made by the Minister, no mode of transferring inscribed stock other than that prescribed in this Article shall be good in law. [441]

**ARTICLE 36. Transfer of registered stock and bonds secured by trust deed.**—(1) Registered stock and bonds secured by a trust deed shall be transferred by instrument in writing in any usual or common form which the appropriate Registrar shall under the direction of the Board approve, and shall be executed both by the transferor and the transferee, and duly

witnessed, and the transfer shall, unless the Board have compounded for stamp duty, be properly stamped.

(2) The instrument of transfer and the certificate to which the same relates shall be deposited with and retained by the appropriate Registrar, and such Registrar shall cause an entry thereof to be made in a book to be called "the register of transfers," and shall endorse on the transfer a notice of that entry, and shall issue a new certificate or certificates to the transferee or to the transferee and the transferor, as the case may require. A separate register of transfers distinguished by a number or otherwise shall be kept for each class of registered stock and of bonds secured by a trust deed.

(3) Not more than one class of stock or bonds shall be included in any transfer, and the instrument shall relate only to the transfer, and shall not contain any recital, power or proviso whatever.

(4) The transferor of registered stock or of bonds secured by a trust deed shall be deemed to remain the holder thereof until the name of the transferee is entered on the register relating thereto. [442]

**ARTICLE 37. Transfer of mortgages and bonds not secured by trust deed.**—(1) Mortgages and bonds not secured by a trust deed shall be transferred by deed. Each such deed shall be duly stamped and truly state its date and the consideration for the transfer, and may be endorsed on the mortgage or bond to which it relates and a transfer of a mortgage may be according to the form contained in the Schedule to the Regulations or to the like effect.

(2) The appropriate Registrar shall keep a register of transfers of mortgages or of bonds not secured by a trust deed, and as soon as may be after the date of every deed of transfer of one of those securities, the transfer shall be produced to the appropriate Registrar, who shall cause entries to be made in the appropriate register of transfers of the date of such deed, the names, addresses and descriptions of the parties thereto and the number of the mortgage or bond transferred thereby, and until such entries have been made neither the Board nor the Registrar shall be in any manner responsible to the transferee. A separate register of transfers of bonds, distinguished by a number or otherwise, shall be kept for each class of bonds not secured by a trust deed.

(3) On the registration of any transfer of a mortgage or of a bond not secured by a trust deed, the transferee, his executors or administrators, shall be entitled to the full benefit of the original mortgage or bond, and the principal and interest secured thereby.

(4) No person, except the last transferee registered as aforesaid, his executors or administrators, shall be entitled to transfer, release or discharge any such mortgage or bond or any money secured thereby. [443]

**ARTICLE 38. Inspection of register of mortgages.**—The register of mortgages shall be open to inspection at all reasonable times by any mortgagee or other person entitled to a mortgage, free of charge, and by any other person on payment of a fee not exceeding 2s. 6d. as the Board may from time to time prescribe. [444]

**ARTICLE 39. No notice of trusts.**—No notice of any trust, express, implied, or constructive in respect of any security shall be entered in any register, or in any other book kept by the Board or any Registrar,

or on any certificate, or in any mortgage or in any transfer of any security, or, be receivable by the Board or any Registrar or affect any Registrar or the Board through any Registrar or otherwise, and the receipt of any person in whose name any security stands in the register relating thereto shall be a sufficient discharge to the Board for any capital money paid in respect thereof. [445]

**ARTICLE 40. Transmission on death.**—(1) The interest of a deceased holder of any security shall be transferable by his executors or administrators notwithstanding any specific bequest thereof.

(2) Where two or more persons are registered as holders of any security those persons shall be deemed to be joint holders with right of survivorship between them.

(3) The Board or the appropriate Registrar shall not be required to allow any executors or administrators to transfer any security until the probate of the will or the letters of administration to the estate of the deceased has or have been left with the Registrar for registration and may require all the executors who have proved the will to join in the transfer. [446]

**ARTICLE 41. Transmission otherwise than by death of holder or transfer in books or by deed.**—(1) If the interest in any security has become transmitted by any lawful means other than a transfer in books or a deed in accordance with the Regulations or the death of a holder of the security, satisfactory evidence of the transmission shall be furnished to the appropriate Registrar by a statutory declaration of one or more competent persons or in such other manner as such Registrar, with the approval of the Board, may require.

(2) The name of the person entitled under the transmission shall be entered in the appropriate register.

(3) Until evidence has been furnished in accordance with paragraph (1) of this Article, the Board or such Registrar shall not be affected by the transmission, and no person claiming by virtue thereof shall be entitled to receive any interest on the security.

(4) In this Article the expression "transmission" includes any case of apparent transmission in consequence of the change of name of the holder of a security although the actual ownership of the security may remain unaltered. [447]

**ARTICLE 42. Forgery.**—Securities (other than mortgages not in the form specified in the Schedule to the Regulations or to the like effect) shall be deemed capital stock of a company or society within the meaning of the Forgery Act, 1913. [448]

**ARTICLE 43. Forged transfers.**—The Board shall be at liberty with regard to any class of security (other than mortgages not in the form specified in the Schedule to the Regulations or to the like effect) to adopt in such manner as they shall think fit the provisions of the Forged Transfers Acts, 1891 and 1892. [449]

**ARTICLE 44. Application of Bankers Books Evidence Act, 1879.**—The Board in relation to the Regulations and each Registrar appointed by the Board pursuant thereto (except where the Bank of England are the Registrar) shall respectively be deemed a banker within the Bankers Books Evidence Act, 1879. [450]

**ARTICLE 45. Change of Registrar.**—Subject to the conditions on which any security is issued, the Board may at any time determine the appointment of the Registrar for the time being of that security and appoint another Registrar in his place. [451]

**ARTICLE 46. Registrar may take fees, etc.**—A Registrar may refuse to permit an entry to be made in the stock transfer books kept by him, or to register any transfer of a security unless the fee hereinafter mentioned is paid in respect thereof, and the instrument of transfer is accompanied either by the certificate, or the deed creating the mortgage, or (in the case of a bond not secured by a trust deed) the bond to which it relates (as the case may be), and unless such other evidence (if any) is produced as he may reasonably require to show the right of the transferor to make the transfer. [452]

**ARTICLE 47. Registration fees.**—Except as otherwise provided by the conditions on which any security is issued the appropriate Registrar shall be entitled to charge a fee not exceeding 2s. 6d. as the Board may from time to time prescribe in respect of the registration of each one of the following matters, that is to say (a) any transfer (b) probate of will or letters of administration (c) change of name (d) power of attorney (e) notice of distringas (f) Order of Court or (g) any other document affecting the registration of a security. If any such registration affects more than one class of security a separate fee may be charged (except as aforesaid) in respect of each class. [453]

**ARTICLE 48. Registers to be prima facie evidence.**—Each register shall be *prima facie* evidence of any matter entered therein in accordance with the Regulations and of the title of any person entered therein as the holder of a security. [454]

**ARTICLE 49. Defaced or lost certificates.**—(1) If any certificate of any security is worn or defaced, the appropriate Registrar shall on surrender of the certificate and payment of a fee of 2s. 6d. issue a new certificate to the person entitled to the surrendered certificate.

(2) If it is shown to the satisfaction of the appropriate Registrar that any such certificate has been lost or destroyed he shall, on receiving indemnity to his satisfaction against all claims in respect of the lost or destroyed certificate and on payment of a fee of 2s. 6d., issue a new certificate to the person entitled to the lost or destroyed certificate.

(3) A memorandum of the issue of a new certificate shall be made thereon and in the appropriate register. [455]

## PART VIII

### MISCELLANEOUS

**ARTICLE 50. Closing of transfer books, etc.**—(1) The appropriate Registrar, with the approval of the Board may close the stock transfer books of any class of inscribed stock and the register of transfers of any other class of security for a period not exceeding thirty days immediately preceding the date for the payment of interest on the security the transfer book or register relating to which is to be closed.

(2) The persons who on the day of closing in accordance with paragraph (1) of this Article are inscribed or registered as holders of any security shall as between them and their transferees of the security or

any part thereof be entitled to the interest next payable thereon or on the part to be transferred. [456]

**ARTICLE 51. Arrangements with bankers.**—The Board may subject to the provisions of the Regulations make any arrangement with and provide for the proper remuneration (including the payment of underwriting commission, brokerage and other expenses) of the Bank of England or any banking or other company, brokers or financial Agents with respect to the issue of securities, the registration and transfer of securities, the payment of interest on securities, the keeping of books and other matters incidental to the issue, management, redemption and payment off of securities. [457]

**ARTICLE 52. Protection of lenders and holders of securities.**—A person lending money to the Board or taking or holding any security shall not be concerned to inquire or to take notice whether the borrowing or creation or issue or grant of such security was or was not within any statutory borrowing power or otherwise in accordance with the Regulations, or whether or not the Board or any meeting thereof was properly constituted or convened, or whether or not the proceedings at any meeting of the Board were legal or regular, or to see to the application of any money borrowed or raised by any security or be answerable for any loss or mis-application thereof. [458]

**ARTICLE 53. Protection of purchaser of land, etc.**—Where the Board sell, lease or otherwise dispose of any land or property acquired under the Act the purchaser or lessee shall not be bound to inquire into the application of the money arising from such sale, lease or disposal, or be in any way responsible for the mis-application or non-application thereof. [459]

**ARTICLE 54. Appointment of Receiver.**—If at the expiration of three months from the time when any principal money or interest has become due on any security and after demand in writing, the same be not paid, the person entitled thereto may without prejudice to any other mode of recovery, apply to the High Court for the appointment of a Receiver and the Court may appoint a Receiver on such terms as the Court may determine. [460]

**ARTICLE 55. Powers of Receiver.**—Subject to the terms of creation issue or grant of any security in respect of which the Receiver is appointed any Receiver appointed in pursuance of the Regulations shall have the like power of collecting, receiving, recovering and applying money as the Board would have had in order to provide the money required for the payment of the principal money or interest so in arrear and such other powers and duties as the Court thinks fit. [461]

**ARTICLE 56. Annual return to the Minister.**—(1) The Board shall annually send to the Minister an abstract of the accounts of the Board relating to every security and of the Redemption Fund Account in respect thereof in a form prescribed by the Minister.

The abstract shall be verified by a statutory declaration of an officer of the Board if and as may be required by the Minister and shall be made up to such date in each year as the Minister may determine.

(2) If by any such abstract or otherwise it appears to the Minister that the Board have failed to comply with any requisition of the Regulations or with any direction or requirement of the Minister thereunder,

with respect to any payment, application or investment or otherwise in relation to any security or any Redemption Fund Account, the Minister may by Order require the Board to make good the default within a time therein limited. [462]

**ARTICLE 57. Orders of the Minister.**—Any Order of the Minister in pursuance of the Regulations may contain such provisions as the Minister thinks necessary or proper for giving effect thereto, and shall, where the nature and terms of the Order and the circumstances of the case so require, be enforceable by Order of mandamus to be obtained by the Minister out of the High Court and any such Order may be from time to time cancelled or varied by the Minister as the circumstances of the case require. [463]

**ARTICLE 58. Saving for power of revocation.**—The Board may, by resolution, revoke at any time, in whole or in part, any resolution for creation of any security theretofore passed by the Board if and so far as the same has not been acted on by the issue or grant of securities thereunder, and notice of any such revocation shall forthwith be given to the Minister. [464]

**ARTICLE 59. Saving for other obligations.**—Except as in the Regulations expressly provided nothing in the Regulations shall relieve the Board from any obligation which may be imposed on them in relation to any statutory borrowing power by any Act of Parliament under or by which that power for the time being exists or is regulated. [465]

**ARTICLE 60. Alteration of Regulations.**—The Minister, with the approval of the Treasury, may from time to time make other regulations in addition to, in substitution for or in variation of the Regulations, but not so as thereby to prejudice or affect any existing interest or right of any holder of any security. [466]

## THE SCHEDULE

### FORM OF MORTGAGE

No. .... *Central Electricity Board* £. ....

By virtue of Section 42 of and the First Schedule to the Civil Defence Act, 1939, the Central Electricity Board (Civil Defence) Borrowing Regulations, 1940, and of other their powers in that behalf them enabling, the Central Electricity Board (hereinafter referred to as "the Board") in consideration of the sum of ..... pounds (hereinafter referred to as "the principal sum") paid to the Board by ..... of (hereinafter referred to as "the mortgagee") do hereby grant and assign unto the mortgagee (his) executors administrators and assigns such proportion of the loan charges levy hereinafter defined as the principal sum doth or shall bear to the whole sum which is or shall be charged on the loan charges levy. To hold unto the mortgagee (his) executors administrators and assigns from the day of the date of these presents until the principal sum shall be fully paid and satisfied with interest for the same (subject as hereinafter provided) at the rate of ..... per centum per annum from the ..... day of ..... nineteen hundred and ..... until the payment of the principal sum, such interest to be paid half-yearly on the ..... day of ..... and the ..... day of ..... in each year. And it is hereby agreed that the principal sum shall be repaid at the principal office of the (Registrar of Mortgages of the) Board on the ..... day of ..... nineteen hundred and .....

Provided always and it is hereby agreed and declared that the before-mentioned time for repayment may from time to time by agreement between the Board and the mortgagee be extended to a subsequent day and upon any such extension the before-mentioned rate of interest may be altered to such other rate or rates of interest as shall from time to time be agreed upon between the Board and the mortgagee and mentioned in an endorsement to be made hereon under the hand of the Chairman or Secretary of the Board for the time being and that upon any such endorsement being made whether relating to extension of time only or to extension of time with alteration of rate of interest the provisions thereof shall be incorporated herewith and shall operate and take effect as though they had been originally inserted herein.

"The loan charges levy" means the payments which the Electricity Commissioners are required by paragraph 5 of Part I of the First Schedule to the Civil Defence Act, 1939, to make to the Board to meet the interest and sinking fund charges in respect of any loans raised by the Board under paragraph 3 of that Schedule.

In witness whereof the Board have caused their common seal to be hereunto affixed this                      day of                      nineteen hundred and                      .

Secretary of the Board.

#### THE ENDORSEMENT WITHIN REFERRED TO

The within-named                      consenting the within-mentioned time for repayment of the within-mentioned principal sum of                      is hereby extended to the                      day of                      nineteen hundred and                      (and the interest to be paid thereon on and from the                      day of                      nineteen hundred and                      is hereby declared to be at the rate of                      per centum per annum).

Dated this                      day of                      nineteen hundred and                      .

#### FORM OF TRANSFER OF MORTGAGE

I (the within-named),                      of                      in consideration of the sum of                      pounds paid to me by                      of                      (hereinafter referred to as "the transferee") do hereby transfer to the transferee (his) executors administrators and assigns (the within-written security) (the Electricity (Civil Defence) Mortgage number                      bearing date the                      day of                      ) and all my right and interest under the same subject to the several conditions on which I held the same at the time of the execution hereof and I the transferee for myself my executors administrators and assigns do hereby agree to take the said mortgage subject to the same conditions.

Dated                      day of                      nineteen hundred and                      .

[467]

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**CENTRAL ELECTRICITY BOARD (MAIN TRANSMISSION LINES) ORDER, 1940**

*S. R. & O., 1940, No. 1390*

*July 30, 1940*

In virtue of his powers under Regulation 56 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, the Minister of Transport hereby orders as follows :—

1. For the purpose of the construction by the Central Electricity Board (hereinafter referred to as “the Board”) in the exercise of their powers as undertakers and authorised undertakers within the meaning of the Electricity (Supply) Acts, 1882 to 1936, of any main transmission lines which the Minister of Transport certifies to be necessary or expedient in the interests of the public safety, the defence of the realm or the efficient prosecution of the war, or for maintaining supplies and services essential to the life of the community,

- (i) the Board may place any of the said main transmission lines above ground without the necessity of obtaining any express consent of the Minister of Transport or of any local authority ; and
- (ii) the period of twenty-one days mentioned in the proviso to Sub-section (1) of Section 22 of the Electricity (Supply) Act, 1919, shall be reduced to seven days ;

and the obligations and limitations imposed upon the Board by or by virtue of the Electricity (Supply) Acts, 1882 to 1936, or any Act or other instrument determining their functions shall be relaxed accordingly :

Provided that before constructing any of the said main transmission lines, the Board shall give—

- (a) not less than seven days’ notice of their intention to the local authority (including the County Council) concerned ;
- (b) due notice to the Commissioners of Works, and if the said Commissioners of Works represent that any of the said main transmission lines will prejudicially affect any ancient monument within the meaning of the Ancient Monuments Act, 1931, the Board shall in choosing the route of such main transmission lines give effect to any recommendations made by the Commissioners of Works with a view to preventing the ancient monument being prejudicially affected. [468]

2. This Order may be cited as “The Central Electricity Board (Main Transmission Lines) Order, 1940.” [469]

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## CENTRAL ELECTRICITY BOARD (PROVISION OF GENERATING STATIONS) ORDER, 1940

*S. R. & O., 1940, No. 1673*

*September 16, 1940*

In virtue of his powers under Regulation 56 of the Defence (General) Regulations, 1939, and all other powers him enabling, the Minister of Transport hereby orders as follows :—

1. For the purpose of the supply of electricity by the Central Electricity Board (hereinafter referred to as “ the Board ”) in fulfilment of their duties as undertakers and authorised undertakers within the meaning of the Electricity (Supply) Acts, 1882 to 1936, in the interests of the public safety, the defence of the realm, or the efficient prosecution of the war, or for maintaining supplies and services essential to the life of the community, the Board may themselves generate electricity and subject as hereinafter provided may provide and operate generating stations ; and the obligations and limitations imposed on the Board by or by virtue of the Electricity (Supply) Act, 1926, with respect to the generation of electricity and the provision and operation of generating stations by the Board themselves shall be relaxed accordingly ;

Provided (1) that nothing in this Order shall relieve the Board from the necessity of obtaining the consent of the Electricity Commissioners under section 11 of the Electricity (Supply) Act, 1919, to the establishment or extension of any generating station by the Board, and (2) that the Board shall not themselves operate a generating station unless they satisfy the Electricity Commissioners that they are unable to enter into an arrangement with the authorised undertakers in whose area of supply the station is situated to operate it on reasonable terms. [470]

2. Sub-section (2) of section 4 of the Electricity (Supply) Act, 1926, which requires the Board to give public notice of not less than one month of the date by which persons interested may make representations on the scheme referred to in the said sub-section shall be modified by the substitution of the period of ten days for the period of one month above referred to. [471]

3. This Order may be cited as “ The Central Electricity Board (Provision of Generating Stations) Order, 1940.” [472]

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## ELECTRICITY SUPPLY (WAR DAMAGE) ORDER, 1940

*S. R. & O., 1940, No. 1699*

*September 21, 1940*

In pursuance of his powers under Regulation 56 of the Defence (General) Regulations, 1939, and all other powers enabling him in that behalf, the Minister of Transport hereby orders as follows :—

1.—(1) Where any public utility undertakers, being undertakers for the supply of electricity, are unable during any period to maintain a normal supply of electricity owing to war damage either to their own undertaking or to any other undertaking from which they derive, directly or indirectly, a supply of electricity in bulk, they shall not by virtue of any provision of any Act or other instrument determining their functions (other than a direction given in pursuance of the aforesaid Regulations) be under an obligation to give and continue to give during that period a supply of electricity to any person or for any premises.

(2) In this Order “war damage” means damage caused by, or in repelling, enemy action, or by measures taken to avoid the spreading of the consequences of damage caused by, or in repelling, enemy action. [473]

2. This Order may be cited as the Electricity Supply (War Damage) Order, 1940. [474]

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## ELECTRICITY COMMISSIONERS SPECIAL ORDERS, ETC., RULES, 1930, RELAXATION ORDER, 1940

*S. R. & O., 1940, No. 2165*

*December 18, 1940*

In virtue of his powers under Regulation 56 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, the Minister of Transport hereby orders and directs as follows :—

1. In any case in which the Electricity Commissioners are satisfied that the publication (or the publication without modification) of a notice under Rule IV of the Electricity Commissioners Special Orders, etc., Rules, 1930, would be likely to disclose information of use to the enemy they may dispense with the requirements of such Rule or may direct such modifications as they think necessary in the form of any notice to be published under that Rule, and the said Rule shall be relaxed accordingly. [475]

2. This Order may be cited as “The Electricity Commissioners Special Orders, etc., Rules, 1930, Relaxation Order, 1940”. [476]

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## CASES

*Charges for Supply—Agreement for Supply on Two-part Tariff System—Method of Assessing Fixed Annual Charge—Validity of Agreement made under Electric Lighting (Clauses) Act, 1899, Sched. s. 33—Incorporating Two-part Tariff—Electric Lighting Act, 1882 (c. 56), ss. 19, 20—Electric Lighting (Clauses) Act, 1899 (c. 19), Sched. s. 33—Electricity (Supply) Act, 1926 (c. 51), s. 42.*

Defendants were the authorised undertakers for the supply of electricity to consumers in their area. The relator was a resident in that area and was supplied with electricity under a two-part tariff on the terms, *inter alia*, that he should pay a fixed annual charge and also a charge per unit for all electricity actually consumed by him. The fixed charge was assessed by defendants' chief engineer and manager "mainly in accordance with the size and type of house" supplied, and his "decision as to the amount of the fixed charge" was to be final and conclusive. It was also to be "assessed . . . by the corporation based on the size and nature of the electrical demand of the house and their decision as to the fixed charge is final and conclusive." The fixed charge in the case of the relator's house was assessed at £15, and it was proved that similar houses in the same neighbourhood had been assessed at £7 0s. 6d. These terms were incorporated in an agreement between the relator and defendants, the latter contending that they had power to enter into such agreement under the Electric Lighting (Clauses) Act, 1899, Sched., s. 33. It was contended by plaintiffs that the contract was *ultra vires* on the grounds that (a) the Electric Lighting (Clauses) Act, 1899, Sched., s. 33, was intended to meet only exceptional cases, (b) agreements on the two-part system are provided for under the Electricity (Supply) Act, 1926, s. 42, which impliedly excludes the power to make such agreements under the schedule to the 1899 Act, (c) the terms of the contract constituted an undue preference of other consumers:—

*Held*: (i) defendants' two-part tariff system was not illegal *per se* as they were entitled to act under the power given to them by the Electric Lighting (Clauses) Act, 1899, Sched., s. 33, and neither the provisions of the Electricity (Supply) Act, 1926, nor those of the Electric Lighting Act, 1882, rendered it in itself *ultra vires*, although it was found as a fact that the assessment of the fixed annual charge was arbitrary and capricious;

(ii) on the facts of this particular case, the plaintiff relator was entitled to an injunction in the words of the Electric Lighting Act, 1882, ss. 19, 20;

(iii) the relator was not entitled to be informed of the basis and method of assessment of the fixed charge.—ATTORNEY-GENERAL *v.* WIMBLEDON CORPN., [1940] Ch. 180; [1940] 1 All E. R. 76; 109 L. J. Ch. 56; 162 L. T. 365; 104 J. P. 111; 84 Sol. Jo. 78; 38 L. G. R. 90. [477]

*Deductions against Profits—Undertaking sterilised for purposes of Centralisation of Supply—Rates and Fire Insurance Premiums on Generating Station—Income Tax Act, 1918 (c. 40), Sched. D, Cases I and II, rr. 3, 5 (1).*

The Reigate Corporation, who had been suppliers of electrical energy in their district, entered into an agreement whereby current was to be

generated only for supply to the grid of the central authority. The consideration for their entering into this agreement was certain capital and indemnity payments which, in previous proceedings, had been held not to be trade receipts of the corporation. The agreement, however, did not provide for the payment of, or any indemnity against, the rates payable in respect of the generating station nor the fire insurance premiums upon the building and the machinery therein. The question arose whether, since the generating station upon the finding in the previous proceedings was not producing trade receipts, the rates were proper deductions as necessarily incidental to the taxpayers' trade, and undertaken solely for the purposes of that trade :—

*Held* : both the amount paid in respect of rates and that in respect of fire insurance were proper deductions for the purposes of income tax.  
—REIGATE CORPN. v. CATTERMOLLE, [1940] 4 All E. R. 243. [478]

*Powers of Board of Trade and Electricity Commissioners—Generating Station—Consent of Commissioners—Refusal—Electricity (Supply) Act, 1922, s. 13—Electricity (Supply) Act, 1926, s. 18 (2).*

By s. 13 of the Electricity (Supply) Act, 1922 :

“The Electricity Commissioners shall not—(a) refuse under s. 11 of the principal Act (the Electricity (Supply) Act, 1919) their consent to the establishment of a new, or the extension of an existing, generating station by any authorised undertakers if it is proved to the satisfaction of the Electricity Commissioners that, having regard to all the circumstances of the case, the undertakers are or will, if the consent be given, be in a position to give a supply of electricity adequate in quantity and regularity to meet present and prospective demands of their consumers at a cost not greater than that at which they could give a supply if they obtained a supply of electricity from some other available source designated by the Electricity Commissioners . . . unless the Electricity Commissioners determine that such refusal . . . is necessary in the interest of the general supply of electricity in the district. . . .”

By s. 18 (2) of the Electricity (Supply) Act, 1926 : “Where an application is made by any authorised undertakers to the Minister of Transport or the Electricity Commissioners for their consent or approval under the Electricity (Supply) Acts, 1882 to 1922, in any case where such consent or approval is by those Acts required the Minister or the Commissioners, in determining whether to give or withhold the consent or approval, shall have regard to the provisions of this Act and the effect of any scheme or proposed scheme thereunder.”

S. 18 (2) of the Act of 1926 confers on the Electricity Commissioners a right to refuse their consent to the establishment or extension of a generating station if they are satisfied that that consent would prejudice any scheme or proposed scheme under the Act of 1926, although the circumstances are such that they could not refuse their consent if s. 13 of the Act of 1922 were alone to be considered.—*R. v. ELECTRICITY COMRS., Ex p. CHESTER CORPN.*, [1940] 2 K. B. 247 ; 109 L. J. K. B. 774 ; 163 L. T. 58 ; 104 J. P. 324 ; 56 T. L. R. 782 ; 38 L. G. R. 320—D. C. [479]

# ELEMENTARY EDUCATION

*See EDUCATION.*

## EVACUATION AND BILLETING

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## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL . . . AMENDING REGULATION . . . 32A . . . OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1328*

*July 24, 1940*

\* \* \* \* \*

6. For Regulation thirty-two A of the principal Regulations there shall be substituted the following Regulation :—

**“ 32A. Transfer of persons of unsound mind and mental defectives.—**

(1) Where, in accordance with arrangements made by or with the approval of the Minister of Health or the Board of Control or made in pursuance of an order or direction made or given under Regulation sixteen A or an order made under Regulation twenty-one of these Regulations, a person of unsound mind or a mental defective is transferred from the institution in which he is being treated or maintained to another institution, he shall be deemed to have been lawfully so transferred and may be received into the other institution, and anything required or authorised under the Lunacy and Mental Treatment Acts, 1890 to 1930, or the Criminal Lunatics Act, 1884, or the Mental Deficiency Acts, 1913 to 1938, or under any rules, regulations, order or warrant made or issued under any of those Acts, to be done in relation to him by the persons having the management or control of, or employed for the purposes of, the institution in which he was being treated or maintained shall or may, as the case may be, be done by the persons having

the management or control of, or employed for the purposes of, the institution to which he has been transferred.

(2) The authority or person liable for the maintenance of any person transferred in accordance with any such arrangements as aforesaid shall, subject to any adjustments provided for in the arrangements, be liable for the expenses of his transfer and of his maintenance at the institution to which he has been transferred.

(3) Where arrangements have been made by the Admiralty for the maintenance and treatment at any place of patients who have been or would otherwise be maintained and treated at the Royal Naval Hospital at Great Yarmouth, the Yarmouth Naval Hospital Act, 1931, and any order made thereunder, shall apply in relation to any such place, and to any patients transferred thereto from the said Royal Naval Hospital, and to any persons of the classes mentioned in subsection (2) of section one of that Act removed by order of the Admiralty or admitted by the Admiralty as voluntary patients to any such place, as if that place were the said Royal Naval Hospital.

(4) In this Regulation the expression 'institution' means any institution within the meaning of the Mental Treatment Act, 1930, any institution or certified house within the meaning of the Mental Deficiency Act, 1913, any workhouse, and any hospital approved for the purposes of section nineteen of the Mental Treatment Act, 1930, and also includes any place to which persons of unsound mind or mental defectives are transferred in accordance with any such arrangements as are referred to in paragraph (1) of this Regulation.

(5) In the application of this Regulation to Scotland—

- (a) for references to the Minister of Health and the Board of Control there shall be respectively substituted references to the Secretary of State and the General Board of Control for Scotland; for references to the Lunacy and Mental Treatment Acts, 1890 to 1930, and to the Mental Deficiency Acts, 1913 to 1938, there shall be respectively substituted references to the Lunacy (Scotland) Acts, 1857 to 1919, and to the Mental Deficiency (Scotland) Acts, 1913 and 1940; for any reference to the Criminal Lunatics Act, 1884, there shall be substituted a reference to the Criminal and Dangerous Lunatics (Scotland) Amendment Act, 1871; and for any reference to a person of unsound mind there shall be substituted a reference to a lunatic;
- (b) the expression 'institution' means any asylum, any institution or certified house within the meaning of the Mental Deficiency and Lunacy (Scotland) Act, 1913, and any poorhouse, and also includes any place to which lunatics or mental defectives are transferred in accordance with any such arrangements as are referred to in paragraph (1) of this Regulation." [480]

## DEFENCE (BILLETING TRIBUNALS) AMENDMENT RULES, 1939

*S. R. & O., 1939, No. 993*

*August 30, 1939*

102541.

In the exercise of his powers under paragraph 9 of regulation 22 of the Defence Regulations, 1939, the Minister of Health hereby makes the following rules :—

1. These rules may be cited as the Defence (Billeting Tribunals) Amendment Rules, 1939. [481]

2. The Defence (Billeting Tribunals) Rules, 1939, shall have effect as if references therein to a county borough included references to a metropolitan borough. [482]

\* \* \* \* \*

## ORDER PRESCRIBING THE PRICE PAYABLE IN RESPECT OF ACCOMMODATION FURNISHED IN ANY PREMISES IN ACCORDANCE WITH A BILLET- ING NOTICE IN THE CASE OF CHILDREN FOR WHOM THE OCCUPIER IS REQUIRED TO PROVIDE BOARD AND LODGING

*S. R. & O., 1940, No. 813*

*May 23, 1940*

102900.

The Minister of Health in the exercise of his powers under Regulation 22 (5) of the Defence (General) Regulations, 1939, hereby makes the following Order :—

1. The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [483]

2. The price payable in respect of accommodation furnished in any premises in accordance with a billeting notice shall, in the case of children for whom the occupier is required to provide board and lodging be in accordance with the following scale—

- (a) in the case of children under 10 years of age at the rate of 10s. 6d. a week where one child is taken and 8s. 6d. a week for each child where more than one child is taken ;
- (b) in the case of children who are 10 years of age and under 14 years of age at the rate of 10s. 6d. a week in respect of each child ;
- (c) in the case of children who are 14 years of age and under 16 years of age at the rate of 12s. 6d. a week in respect of each child ;
- (d) in the case of children who are 16 years of age or over at the rate of 15s. a week in respect of each child. [484]

3. Paragraph (a) of the scale contained in the Order dated August 27th, 1939, made by the Minister of Health under Regulation 22 (5) of the Defence (General) Regulations, 1939, and the Order dated February 26th, 1940, made by the Minister of Health under the said Regulation, shall cease to have effect. [485]

4. This Order shall come into operation on the thirty-first day of May, 1940. [486]

\* \* \* \* \*

## DEFENCE (EVACUATED AREAS) REGULATIONS, 1940

*S. R. & O.*, 1940, No. 1209

*July 10, 1940*

At the Court at Buckingham Palace, the 10th day of July, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered that the following Regulations shall have effect :—

1. **Short title and extent.**—(1) These Regulations may be cited as the Defence (Evacuated Areas) Regulations, 1940.

(2) These Regulations shall not extend to Northern Ireland.  
[487]

2. **Interpretation.**—(1) In these Regulations, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“ the appropriate court ” means such court as may be designated by rules made by virtue of Regulation seven hereof ;

“ business ” includes a trade and a profession ;

“ evacuation area ” means any area declared to be an evacuation area for the purposes of these Regulations ;

“ evacuation period ” means—

(a) in relation to any unoccupied premises in an evacuation area, the period commencing with the date of the order declaring the area to be an evacuation area or the date on which the premises became unoccupied, whichever is the later, and ending with such day as may be appointed in relation to the area by an order of the Minister of Home Security ;

(b) in relation to any goods which are the subject of a contract for their hire or hire-purchase by any person who has ceased to reside or, as the case may be, to carry on business in any evacuation area, the period

commencing with the date of the first-mentioned order or the date on which that person ceased to reside or carry on business, whichever is the later, and ending with such day as aforesaid ;

“ lease ” includes an agreement for a lease and any contract of tenancy ;

“ mortgage ” includes a charge.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [488]

**3. Power to declare any part of a defence area to be an evacuation area.**—(1) Where it appears to the Minister of Home Security that by reason of the extent to which any part of a defence area has been or is likely to be evacuated these Regulations ought to apply in relation thereto, he may declare that part of the defence area to be an evacuation area for the purposes of these Regulations.

(2) Nothing in section three of the Rules Publication Act, 1893, shall apply to any order made under this Regulation ; but the Minister of Home Security shall cause notice of the effect of the order to be given as soon as may be in such manner as he thinks necessary for bringing it to the notice of the persons in the evacuation area and of any other persons who in his opinion ought to have notice of the order.

(3) The Lord Chancellor shall take steps to supply courts with copies of the order authenticated in such manner as he may direct, and a court to which any such copy is supplied shall not require any further proof of the order. [489]

**4. Relief to persons in respect of rent, rates and other local debts.**—

(1) Subject to the following provisions of this Regulation,—

(a) no rent or rates payable in respect of any premises in an evacuation area which are unoccupied at the date when the area is declared an evacuation area, or subsequently become unoccupied, and no sum secured or charged on any such premises, and no sum payable in respect of any such premises on account of a redemption annuity within the meaning of the Tithe Act, 1936, or in lieu of tithe, and no sum payable periodically in respect of any right enjoyed in connection with any such premises, and no sum payable under any contract for the supply of water, gas, electricity or telephone services to any such premises, shall be recoverable during the evacuation period ;

(b) no sum shall be recoverable during the evacuation period under any contract for the hiring or hire purchase of goods by a person who, in the case of goods used solely for the purpose of a business, has ceased to carry on that business in an evacuation area or, in any other case, has ceased to reside in the area ;

and no remedy arising in consequence of a default in the payment of any such rent, rates or sum as aforesaid shall be enforceable (whether by proceedings in any court or otherwise) during the evacuation period :

Provided that this paragraph shall not apply—

- (i) to any such rent or sum as aforesaid payable under a lease, mortgage or other contract entered into after the date of these Regulations ;
- (ii) to any such rent or sum as aforesaid which accrued due and payable before the commencement of the evacuation period ;
- (iii) to any such rates as aforesaid payable in respect of a rating period completed before the commencement of the evacuation period ; or
- (iv) to any sum payable under a contract for the hiring or hire purchase of goods, unless the goods or some part thereof were in the area at the commencement of the evacuation period and have not been removed from that area by or on behalf of the hirer before the date on which the sum first accrued due and payable.

(2) For the purposes of the proviso to the foregoing paragraph—

- (a) in determining at what date any part of a capital sum secured or charged on any premises and payable or repayable by instalments, or any part of the hire purchase price payable under a hire purchase agreement, accrued due and payable, no regard shall be had to any provision under which the whole amount outstanding accrues due and payable on a default in the payment of any instalment ; and
- (b) no part of any capital sum secured or charged as aforesaid and not payable or repayable by instalments shall be deemed to have accrued due and payable unless and until a written demand for payment has been served on the person liable and a period of three months, or such longer period as may have been specified in the demand, has elapsed since the service of the demand.

(3) No liability shall arise during the evacuation period under any contract of guarantee, indemnity or insurance entered into before the date of these Regulations by reason of a default in the payment of any rent, rates or sum to which paragraph (1) of this Regulation applies.

(4) If the person entitled to any rent, rates or sum to which paragraph (1) of this Regulation applies satisfies the appropriate court—

- (a) in the case of unoccupied premises, that the person entitled to possession thereof has at any time since the commencement of the evacuation period resided in the area ;
- (b) in any case, that the person liable, or any other person with his consent, has enjoyed a substantial benefit from the premises or goods, as the case may be, since the commencement of the evacuation period or, in the case of any rent, rates or sum payable in respect of a period commencing before the evacuation period, since the commencement of the earlier period ; or
- (c) in any case, that the lease, mortgage, contract, or other obligation under which the liability arises relates also to property other than premises or goods to which that paragraph applies ;

the court may make such order removing or modifying, in relation to the particular liability, any of the restrictions imposed by the foregoing provisions of this Regulation as it thinks just, and for the purpose of any such order may apportion any part of the liability to any period or to any premises or goods.

(5) For the purposes of this Regulation—

- (a) premises requisitioned by or on behalf of any government department shall, without prejudice to the right of any person to compensation in respect of the premises or to any application to the appropriate court under the last foregoing paragraph in respect of any such compensation, be deemed to be unoccupied ;
- (b) no premises shall be deemed to be occupied by reason only of the presence therein of furniture or other goods, and no person shall be deemed to remain in occupation of any premises or to continue to reside or carry on business in an evacuation area by reason only that he intends, when circumstances affecting the area permit, to return to the premises or area or to resume the business. [490]

**5. Preservation of property and disposal of goods.**—(1) With a view to preventing or minimising the loss to the persons interested or the waste of goods essential to the life of the community by the destruction of or damage to property in an evacuation area, any person appointed under this Regulation by the Regional Commissioner within whose region the area is situated may, if it appears to him that no other person in the area has authority to act in relation to any such property, take or authorise the taking of any measures for the preservation or removal of the property which he considers necessary or expedient, and, in a case where there are urgent reasons for disposing of goods owing to their perishable nature or otherwise, sell or otherwise dispose of those goods.

(2) Any person acting under this Regulation shall be deemed to be acting on behalf of the persons interested in the property and may exercise any such other powers as he may be authorised by those persons to exercise.

(3) No person acting under this Regulation shall, so long as he acts in good faith, be under any liability by reason of anything done or omitted to be done by him. [491]

**6. Extension of the Courts (Emergency Powers) Act, 1939.**—(1) Where any judgment or order is or has been given or made for the payment or recovery of a sum of money due under any contract, or for the recovery of possession of land in default of payment of rent, against any person affected directly or indirectly—

- (a) by the evacuation of an evacuation area or by the provisions of these Regulations in their application to such an area ; or
- (b) by the evacuation of any premises in pursuance of advice given by or on behalf of any government department ; or
- (c) by any order made under Regulation sixteen A or Regulation twenty-one of the Defence (General) Regulations, 1939, requiring the removal of animals from any area ;

then, if the person against whom the judgment or order is or has been given or made shows that the contract or lease was entered into after the third day of September, nineteen hundred and thirty-nine, and before the date of these Regulations, and that by reason of his being so affected he is unable immediately to satisfy the judgment or order, or to pay the rent, the appropriate court may exercise its powers under the Courts (Emergency Powers) Act, 1939, as amended by any subsequent enactment, as if the contract or lease had been made before the third day of September, nineteen hundred and thirty-nine.

(2) Where any person so affected is in default in the payment of any rent or other sum due, or in the performance of any other obligation arising, under a lease, mortgage or other contract made after the third day of September, nineteen hundred and thirty-nine, and before the date of these Regulations, then, if he satisfies the appropriate court that he is unable immediately to pay the rent or other sum or to perform the obligation by reason of his being so affected, the court may, either unconditionally or subject to such conditions as the court thinks just, grant an injunction restraining the exercise of any such remedy as is mentioned in paragraph (a) of subsection (2) of section one of the Courts (Emergency Powers) Act, 1939, which may be available against him for the enforcement thereof and, in the case of a mortgage, also grant an injunction restraining the institution of any proceedings for foreclosure or for sale in lieu of foreclosure or for the recovery of possession of the mortgaged property or make an order staying any such proceedings previously instituted. [492]

**7. Procedure.**—The power conferred by section two of the Courts (Emergency Powers) Act, 1939, to make rules for the purposes of that Act shall extend to the making of rules for the purposes of these Regulations, and the said section shall have effect accordingly. [493]

**8. Application to Scotland.**—These Regulations shall in their application to Scotland have effect subject to the following modifications:—

- (a) any reference to “rent” shall include a reference to feu duty; “mortgage” means heritable security; and “injunction” means interdict;
- (b) for any reference to the Lord Chancellor there shall be substituted a reference to the Lord President of the Court of Session;
- (c) for references to the Courts (Emergency Powers) Act, 1939, and to paragraph (a) of subsection (2) of section one thereof, there shall be substituted respectively references to the Courts (Emergency Powers) (Scotland) Act, 1939, and to subsection (2) of section one thereof;
- (d) in paragraph (2) of Regulation six for the words from “and in the case of a mortgage” to the end of the Regulation there shall be substituted the words “or sist any action of mailles and duties previously instituted”. [494]

\* \* \* \* \*

## EVACUATED PERSONS REGISTRATION ORDER, 1940

*S. R. & O., 1940, No. 1812*

*September 11, 1940*

The Minister of Labour and National Service (hereinafter referred to as “the Minister”) by virtue of the powers conferred on him by Regulation 58A of the Defence (General) Regulations, 1939, hereby makes the following Order.

1. This Order may be cited as the Evacuated Persons Registration Order, 1940, and shall come into force on the 18th September, 1940. [495]

2.—(1) Every person to whom this Order applies shall—

- (a) immediately whenever he is or becomes unemployed ; and
- (b) from time to time during any period of unemployment ; attend at a local office of the Ministry of Labour and National Service and register such particulars about himself as the Minister may from time to time require :

Provided that any person who lives more than six miles from the nearest local office may, instead of so attending, send by post to a local office a written application for registration and may furnish the required particulars by post.

(2) In this Order " local office " means an employment exchange or other office appointed by the Minister for the purposes of this Order. [496]

3.—(1) The persons to whom this Order applies are all persons who—

- (a) are normally in employment ; and
- (b) are persons who move or have moved from one area to another under or in pursuance of an approved evacuation scheme ; and
- (c) are persons for whom accommodation by way of lodging or food or both is provided under the terms of a billeting notice issued by virtue of the powers conferred by Regulation 22 of the Defence (General) Regulations, 1939, which requires the occupier of premises to furnish therein while the notice remains in force such accommodation as aforesaid as may be specified in the notice.

(2) In this Article the reference to Regulation 22 shall be construed as a reference to that Regulation as amended by any subsequent Regulation, and an " approved evacuation scheme " means a scheme or plan prepared or approved by His Majesty's Government for the transference of members of the civil population from one area to another in the event of war. [497]

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## OCCUPATION OF PREMISES

*Circular 1949*

*January 18, 1940*

### CASUALTY AND GOVERNMENT EVACUATION SCHEMES

#### PART I

OCCUPATION OF PREMISES FOR FIRST AID, AMBULANCE AND MORTUARY PURPOSES, AND FOR PERSONS CONNECTED WITH THE EMERGENCY HOSPITAL SCHEME

**Delegation of requisitioning powers by the Minister.**

SIR,

1. I am directed by the Minister of Health to refer to the circular letter dated 28th August, 1939, issued by the Air-Raid Precautions

Department of the Home Office, by which the Lord Privy Seal delegated to the Clerks of Local Authorities specified in the Circular the functions of a competent authority under paragraphs (1) to (3) of Regulation 51 of the Defence Regulations, 1939, which relate to the taking possession of land. This delegation of civil defence functions related to all matters then dealt with by the Lord Privy Seal, and in accordance with arrangements made by Ministers under Section 1 (3) of the Civil Defence Act, 1939, including functions under the casualty services for which the Minister of Health is responsible. These are the first-aid post, the ambulance, and the mortuary services. [498]

2. The Minister has been in consultation with the Minister of Home Security (who on the outbreak of war took over the civil defence functions of the Lord Privy Seal) on the question of the requisitioning of premises for these three services, and the two Ministers have decided that all future requisitioning for these services should be effected under such powers as may be delegated by the Minister of Health. Accordingly, the Minister of Home Security has determined that the existing delegation of requisitioning powers so far as it relates to the first-aid post, the ambulance and the mortuary services, shall be withdrawn as from the date of this Circular. In lieu of these powers the Minister of Health hereby delegates to the Clerks of County Councils, County Borough Councils, and any Borough or Urban District Council which has, in accordance with proviso (b) of paragraph (2) of Section 1 of the Air-Raid Precautions Act, 1937, been directed to prepare and submit a scheme under that Act, his powers under paragraphs (1) to (3) of Defence Regulations 51, in relation to the first-aid post, the ambulance and the mortuary services, subject to the conditions set out in the Enclosure to this Circular. [499]

3. These conditions are the same as apply under previous Departmental Circulars, and under Part II of this Circular, to the requisitioning of premises for the purposes of the Government Evacuation Scheme. Thus in future the delegation for all purposes for which the Minister of Health is responsible will be placed on substantially the same footing. [500]

4. The powers hereby delegated do not extend to the requisitioning of premises for nurses' homes or for any purposes connected with casualty hospitals. If it is necessary that premises should be requisitioned for these purposes the Minister will take the necessary action. Any representations that premises are required should be addressed to the Senior Regional Officer. If Local Authorities have, before receipt of this Circular, occupied premises for these purposes and either made an agreement as to the terms with the owner or occupier, or served a requisition notice, I am to ask that particulars may be furnished to the Department on the form referred to in paragraph 11 of this Circular. [501]

**Procedure regarding premises already requisitioned or occupied without formal requisitioning.**

5. Where a requisition notice has been served in connection with premises required for the purpose of the first-aid post, ambulance or mortuary service, the procedure will have followed that set out in A.R.P. Department Circulars 198/1939 of the 28th August, 256/1939 of the 27th September, 277/1939 of the 20th October, 298/1939 of the 4th

November (in London 300/1939 of the 7th November), 315/1939 of the 30th November, 333/1939 of the 9th December (London only) and 349/1939 of the 29th December. These Circulars provide, *inter alia*, that confirmation by the Regional Commissioner (which, in the case of services with which the Minister of Health is concerned, is to be sought through the Ministry's Senior Regional Officer) is required within five months of the date of taking possession. The Minister does not propose to disturb this procedure so far as relates to requisition notices already served, except that confirmation of the taking of land or premises for any one of these three services, will in future be given by the Minister, applications for confirmation being made, as at present, through the Senior Regional Officer. Any application for confirmation of the taking of land or premises for any one of these three services should be made in future on Form C.S.2, a specimen of which is enclosed. [502]

6. It appears that in some cases claim forms have not yet been served on owners and occupiers, and accordingly all cases in which notices of requisition have been issued in respect of premises occupied in connection with the first-aid post, ambulance or mortuary service, should now be reviewed in order to ensure that the appropriate forms have been placed in the hands of the persons entitled to make a claim (see paragraph 6 of the Enclosure to this Circular). [503]

7. If premises are occupied both for the first-aid post, ambulance or mortuary service and for a service for which the A.R.P. Department is responsible (such as a first-aid party depot, or a report and control centre) the application for confirmation must still be made to the Senior Regional Officer (on behalf of the Minister of Health) as well as to the Regional Commissioner (on behalf of the Minister of Home Security), or, if the premises are partly occupied for auxiliary fire services, to the Ministry of Home Security. The notice will not be effectively confirmed until it is confirmed in the names of both Ministers. [504]

8. In some cases premises have not been requisitioned, but Local Authorities have reached an agreement with the owner or occupier. It is necessary that the Minister should have particulars of all agreements affecting premises where occupation is being continued, and later in this Circular, a request is made for particulars to be forwarded to the Senior Regional Officer. Where the Local Authority are in process of negotiating an agreement with regard to premises which they already occupy, the agreement should not be concluded without the consent of the Department to be obtained through the Senior Regional Officer. Applications for consent should be accompanied by a recommendation from the District Valuer whose services are also available for negotiation. If negotiations have only just begun or are not progressing satisfactorily, the Local Authority should consider adopting the procedure outlined in the next paragraph for use where no formal action has been taken with a view to settling compensation following the occupation. [505]

9. In cases in which Local Authorities have occupied and continue to occupy\* premises for the purpose of the first-aid post, ambulance or mortuary service, but neither have served a requisition notice, nor are in process of negotiating an agreement, copies of the prescribed forms on which to make a claim should now be sent to the owner and the

\* The reference here is not to entering upon premises designated under Section 2 of the Civil Defence Act, 1939, for the purpose of executing works under that Act; but to occupation for the purpose of carrying on the Civil Defence Services.

previous occupier, and they should be asked whether they desire to make a claim (see paragraph 6 of the Enclosure to this Circular). If the forms are filled up and returned they should be sent to the District Valuer for negotiation of the claims in accordance with the procedure laid down in paragraphs 8 *et seq.*, of the Enclosure. An exception should be made to this rule in any case in which an owner or occupier has already intimated that he does not desire to make any claim in respect of rent for the premises. In these cases it is obviously unnecessary to send claim forms, but it should be made clear, if this has not already been done, that any claim which the owner may wish to make at the termination of the occupation for emergency purposes in respect of any damage, will be considered and dealt with at that time. [506]

**10. Voluntary hospitals.**—No claim form should be served in respect of any premises occupied by a Local Authority but belonging to a voluntary hospital. In cases in which first-aid posts have been established in such hospitals, the Minister has come to the conclusion that it would be most convenient for the terms of occupation to be negotiated in the first instance between the Department and the governing bodies of the hospitals, at the same time as the Department settle the financial arrangement which is being made with individual hospitals under the Emergency Hospital Scheme. Accordingly, whilst I am to ask that particulars of any agreements which have been negotiated with voluntary hospitals, and of any requisition notices which may already have been served on them, should be given to Senior Regional Officers as requested in the next paragraph, I am to say that in the future Local Authorities should not open negotiations with the hospitals; and they will in due course receive from the Department a note of the compensation which it is suggested should be paid. [507]

#### **Particulars to be forwarded to Senior Regional Officers.**

**11.** The Minister is anxious to receive from all scheme-making Authorities a comprehensive record of all premises which they now occupy in connection with the first-aid post, ambulance, and mortuary services, or, as explained in paragraph 4, for purposes connected with the Emergency Hospital Scheme, other than premises in their own ownership or in the ownership of other Local Authorities. I am accordingly to request that the enclosed form C.S.1 may be completed in duplicate within 14 days from the receipt of this Circular. Separate forms should be used for the first-aid post, the ambulance, the mortuary and the emergency hospital service; and if no premises are occupied in connection with any one of these services a "nil" return should be made in respect of that service. One copy of each form should be sent to the Department and the other to the Senior Regional Officer. Particulars of all premises occupied (other than premises in the ownership of a Local Authority) should be included, notwithstanding that the Department may be already in receipt of the information through the submission for confirmation of requisition notices or otherwise. [508]

**12.** So far as mortuaries are concerned this return is to be made in the counties by County District Councils, and they are requested to make a complete return of all premises occupied, whether a requisition notice has been served or not. As, however, the power to requisition premises for this service has been delegated to the Clerks of County Councils, these Officers are requested to return particulars of all requisition notices served in respect of premises required as mortuaries. [509]

**Procedure in future cases.**

13. It will be observed from paragraph 2 of the Enclosure to this Circular that in future the consent of the Minister is to be obtained before possession is taken of premises, except in cases of extreme urgency during or following a raid. Approval is normally required before a new first-aid post, ambulance depot or mortuary is established, and consent to the taking possession of the premises will in future be given at the same time. [510]

14. After obtaining consent the Clerk to the Authority should serve a requisition notice on the owner and occupier and take possession, unless in giving their approval to the establishment of the service, the Department have indicated otherwise. Before the outbreak of war entry on the premises was, as a rule, first made under Section 4 of the Civil Defence Act for the purpose of executing works. In present circumstances, however, this will not be necessary, and possession will be taken under the Defence Regulations, any necessary works being executed after the service of the requisition notice. [511]

**PART II****GOVERNMENT EVACUATION SCHEME****Conditions of delegation of requisitioning powers.**

15. The exercise by Clerks to County Borough and County District Councils of the powers delegated to them by paragraphs 6 and 7 of Circular 1857 dated 27th August, 1939, will in future be subject to the conditions laid down in the Enclosure to this Circular. [512]

16. The procedure laid down in paragraphs 8, 9 and 13 of this Circular will, generally, be applicable also in cases of premises occupied in connection with the Government Evacuation Scheme. [513]

**PART III****GENERAL**

17. Compensation, including payments of interest due thereon, paid to the owners or occupiers of premises in accordance with the Enclosure to this Circular will be met by the Exchequer. [514]

18. Reimbursement of payments made in respect of premises used for Evacuation purposes will be made under the arrangements set out in paragraph 10 of Circular 1904, namely, by inclusion of such payments in the claims for evacuation expenses made in accordance with Circular 1837. [515]

19. As regards payments made in respect of premises used for the purposes of the other Civil Defence services mentioned in this Circular, forms will shortly be issued in which Local Authorities will be able to make application for payments on account of the expenditure involved. In the meantime, and in any cases in which unforeseen expenditure arises, Local Authorities may make application to the Department for a special payment on account. [516]

20. In conclusion, I am to ask that Local Authorities will afford to Senior Regional Officers and to District Valuers every possible assistance in the matters dealt with in this Circular. [517]

21. An additional copy of this Circular is enclosed so that one copy may be used by the Officer dealing with premises occupied for the casualty services, while one is used by the Officer dealing with premises occupied for the Evacuation Scheme. [518]

I am, Sir, etc.

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Enclosure to Circular 1949.

## FIRST-AID POSTS, AMBULANCE DEPOTS, MORTUARIES, AND PREMISES REQUIRED FOR THE GOVERNMENT EVACUATION SCHEME

CONDITIONS ON WHICH THE FUNCTIONS OF THE MINISTER OF HEALTH UNDER PARAGRAPHS (1) TO (3) OF DEFENCE REGULATIONS 51 ARE DELEGATED TO THE CLERKS TO THE SPECIFIED LOCAL AUTHORITIES

### Consent of the Department to be obtained.

1. In A.R.P. Department Circular No. 298/1939 dated 4th November, and issued by the Minister of Home Security, it was announced that the requisitioning powers previously delegated to Clerks for various civil defence purposes were, with one exception (the provision of public shelters), made subject to the condition that the prior consent of the Regional Commissioner should be obtained before possession of land or premises is taken. [519]

2. The Minister has decided to adopt a similar procedure in relation to the taking possession of premises for purposes connected with the first-aid post, ambulance and mortuary services, and with the Government Evacuation Scheme, and accordingly in future the consent of the Department must be obtained before possession is taken. Applications for this purpose should be made to the Senior Regional Officer of the Ministry on Form C.S.3, a specimen of which is enclosed. The form should be submitted in duplicate. The only exception to this rule is the case where additional premises are urgently required in extension of or in substitution for existing premises during or immediately following an air raid. In these circumstances possession may be taken without reference to the Department, although the Senior Regional Officer should be informed as soon as possible thereafter. [520]

### Limitation of requisitioning power.

3. (i) The requisitioning power is limited to the taking possession of
  - (a) houses or other residential buildings, in both cases if unoccupied ;
  - (b) other buildings whether occupied or not.

(ii) The power is limited to the taking of possession of buildings for some purpose directly connected with the provision under the Civil

Defence Acts, 1937 and 1939, of a first-aid post service, or an ambulance service, or of mortuaries or with the Government Evacuation Scheme.

(iii) The period of occupation of the building is not to extend beyond the period indicated to the Clerk by the Senior Regional Officer when consent is given to the requisition; or, in the case of premises requisitioned under the exceptional procedure set out in paragraph 2, beyond one month. In both cases any necessary application for the extension of the period should be made to the Senior Regional Officer.

(iv) No premises may be requisitioned if arrangements have been made for their use by or on behalf of any Government Department, whether by way of requisition or otherwise, or if they are in the occupation of any Local Authority.

(v) The requisition is subject to the right of the Minister at any time to direct the Authority to hand over the premises to the person otherwise entitled to possession. [521]

4. Premises should not be retained for any longer period than is necessary and, as soon as it is decided that they can be released, the earliest steps should be taken to notify the person or persons on whom the requisition notice was served, of the intention to release them. It is suggested that the notification of release should be in the form appended to this Circular (Form C.S.5). A copy of this notice should be sent to the Department. [522]

#### Procedure.

5. The requisition notice should be in the form appended to this Circular (Form C.S.4). [523]

6. Compensation for the taking possession of premises falls to be determined under Section 2 of the Compensation (Defence) Act, 1939, and Section 11 of the Act provides, *inter alia*, that no claim shall be entertained unless notice of the claim has been given in such form and manner as may be prescribed.

The appropriate forms are Forms 1 and 2 prescribed by the Compensation (Defence) Notice of Claim Rules, 1939 (S. R. & O., 1296 of 1939), and copies of the appropriate claim form should be handed, together with the requisition notice, to the owner and occupier. The blank space at the top of the claim form should at the same time be filled in with the description and address of the person authorised to receive the claim on the Minister's behalf, namely, the Clerk making the requisition. If copies of these forms have not been received by the Authority, application should be made to the Department for the number required. [524]

7. It is essential that there should be available, in all cases, a record of the condition of each property and of any chattels, etc., contained therein at the time when it is taken over. Steps should accordingly be taken immediately upon the serving of a requisition notice and if possible before actual occupation, to have the premises inspected by a duly qualified person (acting, if possible, in collaboration with a representative of the owner or occupier) who will prepare a detailed record of the condition of the premises and an inventory of all chattels in the building at the time of the requisition. For this purpose Senior Regional Officers will be prepared to approve, if necessary, the employment of firms of surveyors and valuers. [525]

8. Negotiations for the settlement of claims will be undertaken by the Valuation Office of the Inland Revenue Department. The Clerk should not attempt to negotiate the terms on which the premises will be taken over. [526]

9. It will remain for the Local Authority to make, on behalf of the Minister, the actual payments of sums due. Accordingly the only further matters with which the Local Authority will be concerned are the procedure for the submission and payment of claims. These are dealt with in the following paragraphs. [527]

10. The claim forms, when returned, should immediately be transmitted to the District Valuer with any available information which may be of assistance, including, in all cases, copies of the requisition notice and of the records referred to in paragraph 7. [528]

11. In some cases persons whose premises have been requisitioned may, for patriotic reasons, decide not to make any claim. In these cases a copy of the document relinquishing the claim should be sent to the Senior Regional Officer of the Ministry of Health and the original carefully preserved in the records of the requisition. [529]

12. In other cases owners or occupiers, while making no substantial claim, may wish for reimbursement of out-of-pocket expenses of a trifling amount in comparison with the amount which might justly be claimed under the Act. In these cases the claimant need not at that stage be required to submit a formal claim, and the correspondence should immediately be transmitted to the District Valuer with any information of the kind mentioned in paragraph 10 in the possession of the Local Authority. [530]

13. Where a formal claim is made and the negotiations for settlement are likely to be prolonged, the District Valuer may consider that a payment on account to the claimant is desirable. In these cases the District Valuer will report to the Senior Regional Officer, who will send a direction to the Local Authority to pay such sum as may be specified. Payment should be made at once in accordance with the terms of the direction. [531]

14. As soon as a settlement has been reached, the District Valuer will report to the Senior Regional Officer who will send to the Local Authority a copy of the document embodying the terms of settlement. Payment in accordance with these terms, less any amount paid on account under the preceding paragraph, should be made at once by the Local Authority on behalf of the Minister. Except where the terms indicate that interest is included in the settlement, Local Authorities will have the duty of calculating, in accordance with Sub-Section (2), (3) or (5) as the case may be, of Section 2 of the Act, the amount of any interest due up to the date of payment. [532]

15. Attention is drawn to the limitation of time for claiming compensation imposed by Section 11 of the Act. Any applications for extensions should be forwarded to the Senior Regional Officer. [533]

Form C.S.1  
.....Council.

Return showing all properties (other than those belonging to any Local Authority) which are occupied by the Council for the purposes of the First-Aid Post Scheme/the Ambulance Scheme/the Mortuary Scheme/the Emergency Hospital Scheme.

(To be completed in accordance with the Instructions on the back of this form.)

Full Address of Property.	Description of Property.	Rateable Value where whole hereditament is occupied by the Council.	Date of occupation by Council.	Use to which property is put by the Council.	Terms on which property is occupied.		Remarks.
					If agreed, state particulars (see instruc- tions overleaf).	If not agreed, has case been referred to Dis- trict Valuer.	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

[584]

Signature of Clerk.....

Date .....

## INSTRUCTIONS FOR THE COMPLETION OF THIS RETURN

(1) As indicated in paragraph 10 of the Circular, separate forms are to be used for each of the four services (first-aid post, ambulance, mortuary, emergency hospital). For the purpose of these returns premises will be classified as follows :—

*First-aid posts.*<sup>1</sup>

- (a)=Aid post.
- (b)=Storehouse.
- (c)=Other purposes (specific purpose to be stated).

*Ambulance services.*

- (a)=Garage accommodation.
- (b)=Rest room, etc., for ambulance staff.
- (c)=Storehouse.
- (d)=Other purposes (specific purpose to be stated).

*Mortuaries.*

- (a)=Mortuaries.
- (b)=Other purposes (specific purpose to be stated).

*Emergency Hospital Scheme.*

- (a)=Hospital annexe.
- (b)=Nurses' home.
- (c)=Other staff accommodation.
- (d)=Storehouse.
- (e)=Other purposes (specific purpose to be stated).

(2) Premises belonging to the Council or to any other Local Authority should not be included in this return.

(3) In Column 2 should appear a short description of the purpose for which the premises were normally used, *e.g.* "dwelling-house," "garage," "store," etc. If only part of the premises are occupied that should be stated, *e.g.* "basement of office block," "part ground floor of hospital."

(4) The particulars to be entered in Column 6 will, in the case of premises occupied under agreement, be (a) the amount of the annual rent payable, (b) the word "inclusive" or "exclusive" signifying that that rent is inclusive or exclusive of rates, and (c) a word, such as "annual," "quarterly," or "monthly," signifying term of tenancy. Where the agreed terms include any further financial obligations, a note of them should be made in Column 8.

In the case of requisitioned premises particulars of any compensation which has been settled will be entered in Column 6 prefixed by the letter "C."

(5) If the premises, although technically occupied by the Council, are actually by arrangement in occupation by another body, a note stating the body in actual occupation should be made in Column 8.

(6) In any case in which the terms on which premises have been occupied have not been agreed, and no reference has been made to the District Valuer, the reasons should be stated briefly in Column 8.

(7) If no premises (other than premises belonging to Local Authorities) are occupied by the Council for purposes of any one of the four services covered by the Circular, it is important that this form should be returned marked "NIL" in respect of that service. [535]

<sup>1</sup> N.B.—No premises should be occupied for use as a first-aid point.

## Form C.S.2

## DEFENCE REGULATIONS, 1939

## Regulation 51

To the Senior Regional Officer, Address .....  
 .....Region, .....  
 Ministry of Health. ....

I .....  
 the Clerk .....  
 in the exercise of the powers delegated to me under the terms of A.R.P. Circular 198/1939 (Enclosure) by the Minister of Home Security and by virtue of Regulation 51 of the Defence Regulations, 1939, on.....  
 19..... took possession of the land and/or premises at (full postal address .....  
 .....  
 consisting of .....  
 .....  
 then in the occupation of .....  
 and used for .....  
 for the purpose of (to be specifically stated, *e.g.* First-Aid Post) .....

I certify that the land and/or premises do not fall within any of the categories specifically excluded by the Minister in A.R.P. Circular 198/1939 (Enclosure), and I am satisfied that all reasonable precautions, including reference to the Central Register of Accommodation earmarked for Government purposes and covering instructions relating thereto, have been taken to ensure that the land and/or premises taken are not required or earmarked by any Government Department for another purpose.

I have also taken possession of other parts of the same land/or premises for the purpose of .....  
 and separate notifications have been rendered in respect thereof.

Signature .....

The Clerk .....

Date .....

## FOR USE BY THE MINISTRY OF HEALTH

The Minister of Health hereby confirms the taking possession of the land and/or premises named above.

The period of occupation must not extend beyond ..... months from the date of taking possession unless the consent of the Minister is obtained.  
 .....

Senior Regional Officer,  
 Ministry of Health.

Date .....

NOTE.—The Minister of Health may at any time direct that the possession of the land and/or premises named in this application shall cease. [536]

Form C.S.3

## DEFENCE REGULATIONS, 1939

Regulation 51

To the Senior Regional Officer, Address .....  
 .....Region, .....  
 Ministry of Health. ....

I .....  
 the Clerk .....  
 hereby apply for consent to the exercise of the powers delegated to me under  
 the terms of Circular <sup>(1857)</sup> by the Minister of Health, for the purpose of  
 taking possession under Regulation 51 of the Defence Regulations, 1939, of  
 the land and/or premises at (full postal address).....

.....  
 consisting of .....

.....  
 and now unoccupied (in the occupation of .....

.....  
 and used for .....

for the purposes of (to be specifically stated, *e.g.* first-aid post, ambulance  
 depot, store for first-aid post equipment, etc.).....

I testify that the land and/or premises do not fall within any of the  
 categories excluded by the Minister in the Enclosure to Circular 1949, and  
 I am satisfied that all reasonable precautions, including reference to the  
 Central Register of Accommodation earmarked for Government purposes  
 and covering instructions relating thereto, have been taken to ensure that the  
 land and/or premises taken are not required or earmarked by any Government  
 Department for another purpose.

Signature .....

The Clerk .....

Date.....

## FOR USE BY THE MINISTRY OF HEALTH

The Minister of Health hereby consents to the taking possession of the  
 land and/or premises named above.

The period of occupation must not extend beyond ..... months from the  
 date of taking possession unless a further consent of the Minister is obtained.

.....  
 Senior Regional Officer,  
 Ministry of Health.

Date .....

NOTE.—The Minister of Health may at any time direct that the possession  
 of the land and/or premises named in this application shall cease. [537]

## Form C.S.4

## FORM OF REQUISITION NOTICE

To :

TAKE NOTICE that in exercise of the powers delegated to me by the Minister of Health under and by virtue of Regulation 51 of the Defence Regulations, 1939, I have this day taken possession of the premises known as <sup>1</sup>

Signed .....

Clerk to the Council.

Date .....

N.B.—Notice of Requisition, in this form, should be given to the owner and to the occupier. The notice if not delivered to the person concerned should be sent by letter addressed to his last or usual place of abode or place of business. [538]

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<sup>1</sup> The property should be described so that it may be identified.

## Form C.S.5

## FORM OF NOTICE OF RELEASE

To <sup>1</sup>

TAKE NOTICE that, acting on behalf of the Minister of Health, I have this day given up possession of the premises known as <sup>2</sup>

of which possession was taken by me on <sup>3</sup>.....in the exercise of powers delegated by the Minister of Health under and by virtue of Regulation 51 of the Defence Regulations, 1939.

Signed .....

Clerk of the .....Council.

Dated ..... day of.....1940.

N.B.—Notice of Release, in this form, should be given to the owner and to the occupier. The notice if not delivered to the person concerned should be sent by letter addressed to his last or usual place of abode or place of business. [539]

---

<sup>1</sup> Insert name and address of owner or occupier as the case may be.

<sup>2</sup> The property should be described in the same words as in the requisition notice.

<sup>3</sup> Insert date.

## OCCUPATION OF PREMISES

*Circular 2074**June 29, 1940*

## REFUGEES FROM ENEMY ATTACK

SIR,—1. I am directed by the Minister of Health to refer to Circular 1860 of the 2nd September, 1939, in which the Council were requested to establish stations for the provision of food and temporary shelter for refugees from enemy attack or the imminence of enemy attack. [540]

2. The Minister does not anticipate that the Council will in general find difficulty in obtaining possession, when necessary, of the premises earmarked under their scheme under Circular 1860 or, in the case of those Councils who have made supplementary plans for dealing with abnormal numbers of these refugees, of the premises selected for the purposes of the latter. [541]

3. He regards it, however, as of importance that the Council should be in a position to obtain possession of premises required for the relief of refugees at the shortest possible notice, and he has therefore decided to extend the powers delegated to the Clerk of the Council/Town Clerk by paragraph 2 of Circular 1949, of the 18th January, 1940.

The Minister accordingly, in exercise of his power under paragraph 5 of Defence (General) Regulation 51, hereby extends the powers already delegated to you to cover the taking possession of buildings for use as feeding or shelter stations within the meaning of Circular 1860. [542]

4. The exercise of the powers now delegated will be subject to the following conditions, namely :

- (i) The power shall not be exercised in advance of the occasion on which the buildings are required.
- (ii) The conditions laid down in the Enclosure to Circular 1949, except paragraph 3 (ii) and except that the exceptional procedure set out in paragraph 2 of that Enclosure may be regarded as the normal procedure for the purpose of this delegation. [543]

5. If the Council desire to obtain an advance of funds in respect of expenditure incurred under Circular 1860, they should make application through the Ministry's Senior Regional Officer. [544]

I am, Sir, etc.

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## PERSONS RENDERED HOMELESS BY ENEMY ATTACK

*Circular 2097*

*July 16, 1940*

SIR,—1. I am directed by the Minister of Health to draw your attention to difficulties which persons who have been rendered homeless by enemy action may have in finding new homes. Responsibility for the provision of immediate assistance to these persons rests with the Public Assistance Authorities, and in most of the urban areas arrangements have been made for this purpose. These include the provision of food and shelter for a short period following the attack, and, where necessary, temporary billeting, power to billet for this purpose having been conferred on the billeting officers of local authorities by the Minister's Circular 1860 of the 2nd September, 1939, and the Circular of the same date addressed to billeting authorities other than County Borough Councils. [545]

2. Arrangements of this kind are intended to tide over the immediate emergency, and it is expected that subsequently the great bulk of those families whose homes are destroyed but whose wage-earning members remain in employment will find it possible to make their own arrangements for accommodation either with relatives or friends, or by securing houses or rooms in the neighbourhood, and that this will be the case even where it has been necessary to resort to temporary billeting in the first instance. [546]

3. It is very desirable, and in the case of persons engaged on work of national importance essential, that persons in these circumstances should by one means or another, find accommodation near their work, and where for any reason the persons concerned are unable to solve the problem for themselves, it will be necessary for the local authority to consider taking action on the lines indicated below. [547]

4. In some areas there will be empty houses or other buildings which are, or can with slight adaptations be made suitable for accommodating one or more families.

Where the local authority are satisfied that conditions in their area make it necessary that any such houses or buildings should be used for this purpose, they should take possession and let the house or building to one or more families at a reasonable rent for the accommodation offered; and to enable this to be done the Minister hereby extends the powers already delegated to you, to cover the taking possession of buildings for the purpose of providing accommodation for persons rendered homeless by enemy attack.

The exercise of the power now delegated will be subject to the following conditions, namely:—

(1) The power is limited to the taking possession of

(a) houses or other residential buildings, in both cases if unoccupied;

(b) other buildings, whether occupied or not.

(2) The power shall not be exercised in advance of the occasion on which the property is required.

(3) The power shall not be exercised without the consent of the Senior Regional Officer of the Ministry and the period of occupation of the building shall not extend beyond the period indicated by the Senior Regional Officer when consent is given.

(4) The conditions set out in paragraph 3 (iv) and (v) of the Enclosure to Circular 1949.

Applications for consent should be made to the Senior Regional Officer on Form C.S.3 which is appended to the Enclosure to Circular 1949 and the procedure set out in paragraphs 5 to 15 of that Enclosure should be followed. As regards furniture for the incoming tenants the Government have already announced, in answer to a Parliamentary question in the House of Commons on the 6th June, 1940, that advances up to £50 will be made to assist in the provision of new furniture in the case of householders whose total income does not exceed £400 a year. The full answer to this question is set out in the appendix to this Circular. [548]

5. It may, in exceptional cases, be necessary to take a residential building which is unoccupied but furnished, but this should not be done unless all other available accommodation has been exhausted. In order to meet such a contingency the Minister, in exercise of his power under paragraph (5) of Defence (General) Regulation 53 delegates to you the power of requisitioning any chattels contained in any building which may be requisitioned by you under the power conferred by the last preceding paragraph of this Circular. The notice requisitioning these chattels must include a direction to the owner or occupier or his solicitor or agent, requiring him to remove or to store in a designated part of the premises specifically excluded from the requisition all chattels not essential for the purpose for which the premises are taken. [549]

6. In cases where action on these lines is impracticable or insufficient, it may be necessary to have recourse to billeting. The Minister assumes, that as a result of Circular 2071 issued on the 27th June, 1940, Billeting Officers will already have been appointed in most local authorities' areas. Where this has not been done the necessary appointments should be made forthwith under the powers delegated by Circular 1857 and subsequently extended by other circulars, as indicated in paragraph 1 above. Particular attention is called in this connection to paragraph 1 (except sub-paragraph (e)) of Circular 1857. The homeless persons should be billeted for lodging only on the basis of Form B, stocks of which can be obtained from the Ministry of Health. The householder will be under obligation to provide shelter and reasonable access to water supply and sanitary conveniences. He is under no obligation to provide cooking facilities, but it is hoped and believed that most householders would be willing to make such facilities available. The rates of payment to the householder are 5s. per week for adults and 3s. per week for each child under the age of 14. The counterfoil of Form B should be completed and signed by the Billeting Officer and retained for preparation of a billeting register. Most of the families to be billeted will no doubt be in receipt of their normal incomes, and arrangements should be made with them for the payment to the local authority of reasonable charges (not in any case exceeding the billeting payments to be made to the householder in respect of them), regard being had to the accommodation offered and the rent previously paid

by the family. It is not proposed to apply in these cases the system of assessment and recovery which has been adopted in the case of the billeting of unaccompanied school children. [550]

7. Where a local authority exercise the requisitioning power conferred by this Circular, they should keep complete records relating to each property, showing the date when it was taken over, any money expended thereon, any outgoings, *e.g.* by way of rates and any receipts for rents. Similarly if billets are arranged, the proper entries should be made in the billeting register and an account kept of all payments made to the authority by the families billeted in respect of the accommodation provided for them. [551]

8. The Minister appreciates that cases may occur in which the loss of available housing accommodation in an area through enemy attack is proportionately so heavy that exceptional steps will be necessary. When a local authority consider that such a position has arisen in their area, they should communicate at once with the Senior Regional Officer, with a view to the appropriate measures being devised and put into operation. [552]

I am, Sir, etc.

#### APPENDIX

The Government's scheme of compensation for war damage to property, which was announced in the House on 31st January, 1939, provided for the payment of compensation after the war in accordance with a scale which would depend on the total amount of the damage and the financial circumstances of the country. Such compensation would be payable not only in respect of damage to the structure of buildings and to industrial plant, but also in respects of damage to such contents as furniture and clothing. As regards damage to buildings and plant, while no payments of compensation can be made until after the war, provision has already been made in the Housing (Emergency Powers) Act, 1939, and the Essential Buildings and Plant (Repair of War Damage) Act, 1939, for essential repairs, the cost being met out of Government loans.

In order to meet urgent cases of need, arrangements have now been made whereby advance payments of compensation up to limited amounts will be made in respect of damage to essential household furniture and personal clothing where the resources readily available for replacing damaged furniture and clothing are limited. Advances in respect of furniture will be made where the total income of the claimant's household does not exceed £400 a year, and in respect of clothing where the total income of the claimant does not exceed £250 a year if there are no dependants or £400 a year if there are dependants. An advance in respect of furniture will be made up to £50 or the amount of the damage, whichever is the less. An advance in respect of clothing will be made up to the amount of the damage or £10 where there are no dependants, £20 where one dependant, or £30 where more than one dependant, has also suffered damage. Those desiring to take advantage of these arrangements should apply to the local officer of the Assistance Board who will have authority, in the most urgent cases and on being satisfied as to need of the applicant, to make partial payments forthwith. [553]

## NURSERY CENTRES FOR CHILDREN IN RECEPTION AREAS

*Circular 1495 (Board of Education)*

*Circular 1936 (Ministry of Health)*

*January 9, 1940*

### I. INTRODUCTION

1. The Minister of Health and the President of the Board of Education have had under consideration problems which have arisen in regard to children under the age for compulsory school attendance who were evacuated under the Government Scheme, and regard it as essential that action should be taken as speedily as possible to provide facilities for the social training and occupation of these children during the day, thus incidentally relieving the receiving householders of some part of their responsibility for them. [554]

2. With these ends in view a scheme for the establishment of Nursery Centres, which may briefly be described as something between a day nursery and a nursery school, has been agreed upon as the type of provision which seems best calculated to meet the childrens needs in the present exceptional circumstances. [555]

3. This Circular sets out the parts which will be played in the application of this scheme by the Local Authorities in the reception areas—the Education Authority, the Welfare Authority and the Reception Authority—and by voluntary assistance. It will be apparent that in the provision of accommodation, equipment and staff, and in the discharge of duties incidental to the conduct of the Centres, there is a wide field for voluntary effort ; it is felt that national service of this kind, which may well have vitally important effects on the life of the next generation, will make a special appeal to people of good will in the districts in which the children are, in the interests of their safety, living during the war. [556]

### II. NATURE OF THE PROBLEM

4. A large number of young children were evacuated with school parties in the company of their elder brothers and sisters, but not their mothers, but although many of them were attending "Babies" or Nursery Classes in Public Elementary Schools in the evacuation areas, owing to lack of accommodation they have not as a rule been admitted to school in the reception areas. A much larger number were evacuated under the charge of their mothers. Although some of these young children have unfortunately been brought back to the evacuation areas, many of them still remain, and it is important that all practicable steps should be taken to keep the children in the reception areas and to do everything possible for their welfare. [557]

5. Where the children have been evacuated without their mothers a particularly heavy responsibility is placed upon the householder with whom they are billeted, while problems of a different kind have arisen where children are accompanied by their mothers. In some areas the mothers are taking part in communal activities (sewing

classes and the like), or they may have found employment locally, and the development of occupational interests for the mothers would be greatly facilitated if some organisation existed for taking care of the children during the day. The provision of Nursery Centres, therefore, will not only relieve the householders and benefit the children, but will have the further advantage of enabling more of the mothers to occupy their day profitably. [558]

6. Clearly, then, it is in the interests of all the parties concerned that the needs of these young children in regard to welfare, social training and communal activity should as far as possible be met, though special attention should be directed to the problem of those unaccompanied by their mothers, as the removal of such young children from their parents and home surroundings for any length of time is not free from a risk of emotional disorders which may not at first be apparent. [559]

### III. NATURE OF PROVISION CONTEMPLATED

7. Reference was made in the Ministry of Health Circular 1882, dated 2nd October 1939, to the part which can be played by the Welfare Authority in this problem. It was not intended that this reference in a Circular which was dealing with public health matters should cover the field exhaustively. It is understood that some Local Education Authorities have been led to the view that it is not necessary for them to take any part in the organisation of measures to deal with these young children. It was, however, suggested by the Board of Education in their Circular 1474 (Schooling in an Emergency), dated 29th August 1939, that this was a problem in which Local Education Authorities would inevitably be interested. In that Circular it was indicated that there were two main alternative possibilities for dealing with the "under fives" in reception areas:

- (i) what might be termed a large scale organisation, *e.g.* something in the nature of Nursery Schools—groups, that is, of anything over 20 children under organised and possibly qualified or partly qualified supervision, in such premises as may be found available;
- (ii) small scale organisations—quite small groups of children housed, perhaps, in a large room in a private house.

It seems probable that in the majority of reception areas alternative (ii) will be found to offer the more practicable solution, and it is to this type of organisation that the Ministry and the Board wish to draw particular attention in this Circular. [560]

8. The young children now under consideration may be divided into two groups, those under two years of age and those between two and five years of age. The needs of these two groups will naturally be rather different. For evacuated children under two, who are much less numerous than those over this age, the simple kind of provision made in a day nursery or creche will be sufficient, and it is not proposed in this Circular to discuss the requirements of this type of provision. For children between two and five a Nursery Centre at which social training and occupation can be provided is more appropriate. [561]

9. It is suggested that Nursery Centres for evacuated children between two and five should provide for groups of some 10 to 20

children, who would be brought together each day for sessions corresponding roughly with those in an infants' school, and occupied in a manner appropriate to their age. Each Centre should be within easy walking distance, say about half a mile, from the children's billets. The children would usually return to their billets for the midday meal, unless there is a communal meals centre close by to which they could go. [562]

10. In the succeeding paragraphs some general principles to be observed in the establishment and administration of the Centres are discussed. Detailed advice on the premises, equipment and conduct of the Centres is given in the Appendix, which has been prepared as a separate document for the convenience of local Committees, teachers and others directly associated with the work. Additional copies of the Appendix will be available free of charge on request. [563]

#### IV. THE ESTABLISHMENT OF NURSERY CENTRES FOR CHILDREN BETWEEN 2 AND 5

##### (a) Preliminary Procedure.

11. It is suggested that the organisation and management of the Centres in the area of each Local Reception Authority where such provision is needed should be entrusted to a small and informal local Committee consisting of representatives of the Local Education Authority, the Welfare Authority and the Reception Authority, to which should be added a representative of the local branch of Women's Voluntary Services for Civil Defence. This Committee would be responsible for all matters connected with the establishment and maintenance of the Centres, and it is suggested that the Secretary to the Committee might conveniently be found by the Local Reception Authority. [564]

12. The Board have already asked H.M. Inspectors of Schools to ascertain, in consultation with Local Authorities and other officials, the extent of the need for Nursery Centres for evacuated children between 2 and 5 in reception areas in England and Wales. They trust that where there is an evident demand for the establishment of these Centres, the Authorities concerned will immediately get in touch with one another and with H.M. Inspector of Schools with a view to the formation of the local Committees who will be responsible for the conduct of the Centres. [565]

13. It will be the first business of a local Committee to obtain an estimate of the number of children eligible for admission to Nursery Centres in the area of the Local Reception Authority, and to decide where the Centres will best be placed in view of the numbers of children within easy walking distance who are likely to attend and the nature of the accommodation available. While there is no doubt of the urgency of the need for these Centres in many places, and while it is hoped that they will be an important factor in preventing the return of more of these young children to evacuation areas, it would clearly be uneconomical to establish a Nursery Centre in any district where the possibility of falling attendances seemed likely to make it a short-lived venture. It will therefore be advisable to concentrate in the first place upon towns and villages in which there are still 50 or more evacuated children between 2 and 5. [566]

(b) **Accommodation.**

14. It is anticipated that the simple type of accommodation required will usually be obtainable through the kindly co-operation of local residents. In some cases the hiring of premises may prove necessary, but it will not normally be necessary to resort to the use of requisitioning powers. [567]

15. When considering emergency arrangements of this kind it would clearly be inexpedient, and perhaps unnecessary, to lay down rigid requirements in the matter of accommodation, but because of the extreme importance of avoiding the spread of infection it is necessary to prescribe definite requirements as to floor space, and there should be in the premises selected a minimum of 15 square feet per child. Subject to this reservation the Centres might be accommodated in single empty rooms in houses or in other premises, and the simplest necessities of floor space, ventilation, light, warmth, lavatory and washing facilities are all that will be required. [568]

16. Apart from the consideration of these necessities, which are further discussed in the Appendix, it is hoped that the greatest possible freedom of choice will be used in securing accommodation for Nursery Centres. The guiding principles should be the need for some Centre where children may spend in each other's company a happier and healthier day than they would in their present circumstances, and the avoidance of any plan which will expose them to the risk of infection, dirt, or the formation of bad habits. [569]

(c) **Staff**

17. The proposal to place children in groups with a maximum of about 20 in each makes it necessary to put a Warden in charge of each of these units. This warden need not be a qualified teacher, but should be selected on her suitability for the work. The local Committee may well be able to find within the resources of the district some competent person who would undertake this work as a form of national service without payment, though it is recognised that the employment of paid wardens will sometimes be necessary. [570]

18. A Superintendent must be appointed to supervise the work of the wardens, and this Superintendent should be a trained and experienced Nursery School or Infants' teacher. Her work will consist of supervising the activities of the Centres which are managed by the wardens, and she may well have charge of four or five of these, though naturally the number of Centres which she is able to supervise will depend upon their local distribution. [571]

19. Voluntary helpers will no doubt be readily available to assist the wardens, including for example the mothers of the children, girls who have recently left school, or any other volunteers who are prepared to offer their help. The duties of these helpers, and of other members of the staff, are set out in detail in the Appendix. [572]

20. It is not anticipated that much difficulty will be found in securing suitable staff for the Centres. The Local Education Authority will probably be able to put the local Committee in touch with suitable teachers who can be spared to undertake this work and who could be seconded for the purpose either from their own staff or from the staffs

of evacuation areas, and it may sometimes be possible to enlist the service of teachers who have retired on marriage. The local officers of Women's Voluntary Services will probably be of assistance in suggesting suitable wardens and helpers. [573]

21. The appointment of teachers in connection with Nursery Centres raises the important question of the safeguarding of their superannuation rights, and in this matter the Board of Education wish to state that the service of teachers employed at the Centres by Local Reception Authorities will be recognised as "war service" for the purposes of the Teachers Superannuation (War Service) Act, 1939. [574]

22. It is essential that arrangements should be made for the regular visits to each Centre of a doctor and nurse. The Local Education Authority and the Welfare Authority should co-operate in providing these facilities. [575]

- |                              |                                                                |
|------------------------------|----------------------------------------------------------------|
| (d) Furniture and Equipment. | } Full information on these subjects is given in the Appendix. |
| (e) The Day's Activities.    |                                                                |

#### V. FINANCE

23. The primary responsibility for financing the Nursery Centres will rest with the Local Reception Authority, and the Ministry of Health will be prepared to regard approved expenditure upon the establishment and maintenance of Nursery Centres for evacuated children as a charge on the evacuation account. The exercise of every possible economy in the establishment and conduct of the Centres is a matter of the first importance, and every endeavour must be made to obtain voluntary help as regards staffing, premises and equipment. It is, of course, fundamental that no part of the cost incurred should fall ultimately upon any Local Authority in the reception areas, and the householders with whom the children are living will not be called upon to contribute towards the cost unless meals are provided for the children at the Centres. [576]

24. While the Ministry of Health are prepared to meet all reasonable charges, it is considered that where provision at a Nursery Centre is made for children who were on the registers of "Babies" or Nursery Classes in Public Elementary Schools in the sending Authority's area before evacuation took place, the costs incurred on their behalf should be recovered from that Authority. This adjustment should be made by agreement between the Local Reception Authority and the evacuating Local Education Authority, and may take the form of an apportionment of the charges on the basis of the relative numbers of children in attendance at the Centre where some had previously attended Public Elementary Schools in the evacuation area and others had not. [577]

25. Teachers appointed may be paid at the Burnham salary rate appropriate to the reception area concerned. If, however, the teacher selected has been in the employment of an evacuation Authority with a higher scale immediately prior to her appointment for Nursery Centre work, the higher scale may continue to be paid by the Reception Authority. Where it is found necessary to employ a paid warden, her salary will require consideration according to circumstances (e.g.

whether she is or is not a local resident), and in the light of the payments made locally to other persons doing war work of comparable importance. [578]

26. It should be emphasised that the Nursery Centres are intended primarily for evacuated children. In some cases it may be possible for local children to be admitted if there is room for them after the evacuated children have been provided for or if withdrawals of evacuated children create vacancies. It should be understood, however, that admissions of local children should not be increased indefinitely and that the attendances of evacuated children alone should decide whether in any particular case the continuance of the Centre is justified. [579]

27. Where children between 2 and 5 years of age normally resident in the area are admitted, any addition to the cost of maintenance which is attributable to them must be recovered by the Reception Authority from the Local Education Authority, and the Board will take into account for the purposes of their grant the expenditure incurred by the Local Education Authority subject to compliance with the provisions of Section 119 of the Education Act, 1921. [580]

## VI. CONCLUSION

28. In the foregoing paragraphs there have been outlined the main features of the scheme which the two Departments hope will do much to meet the problems which now require urgent executive action—to provide social training and occupation for the children themselves and to relieve the billeting householders in some measure of an exacting responsibility. [581]

29. It is not claimed that in this Circular the problems have been considered in all their aspects nor that every point connected with the establishment and maintenance of the Centres has been dealt with. It is realised that local circumstances will occasionally warrant some departure from the principles which have been laid down. But it is hoped that enough has been said to enable Nursery Centres to be started as quickly as possible in the towns and villages where they are most needed, and that everyone concerned will co-operate in making a success of what will be one of the most valuable contributions which communities enjoying comparative safety can make to the welfare of the children of those less fortunately placed. A few centres for young evacuated children have already been established in the reception areas, usually by voluntary effort, and it may be possible to fit some of them into the framework of this scheme. [582]

30. When local schemes have been formulated they should be submitted by the Clerk to the Local Reception Authority to H.M. Inspector of Schools for the area for his consideration, and if he regards the proposals as generally satisfactory he will forward them to the Board of Education for their formal approval on behalf of the Ministry of Health. Copies of a Form suitable for this purpose are enclosed, and additional copies may be obtained on application. It should be borne in mind that all unnecessary expenditure must be avoided, and no definite financial commitments should be entered into before the Board's approval is received. [583]

31. Any correspondence or enquiries on general questions arising out of this Circular should be addressed by the Clerk to the Local Reception Authority, or by the Secretary appointed by the local Committee, to the Board of Education (Alexandra House, Kingsway, London, W.C.2), who will consult with the Ministry of Health as may be necessary. [584]

## APPENDIX

### NURSERY CENTRES FOR CHILDREN IN RECEPTION AREAS between the ages of 2 and 5

1. Setting up a Nursery Centre.
2. The order of a Young Child's Day.
3. Play.
4. Staff.
  - (a) The Superintendent.
  - (b) The Warden.
  - (c) Voluntary Helpers.

#### 1. SETTING UP A NURSERY CENTRE

As a result of evacuation, there are, in many areas, a number of young children under school age, between two and five years, about whom there is some cause for anxiety. These children are in strange surroundings; they are asked to behave in a different way from what is usual in their own homes, and to eat unfamiliar food. They are often cumbering the feet of people who are too busy to attend to them, so they find tiresome and destructive things to do which are not liked by the grown-ups. But this age, two to five years, is a very important time in a child's life, and unhappy experiences now may have a serious effect on these little girls and boys when they are grown up. We have, we hope, removed them from danger of one kind and we ought to see to it that we are not exposing them to dangers of another kind, for these children are our future citizens and a great deal will depend upon what kind of people they are.

The first thing to understand is that young children need very special care. Their helplessness demands the attention of someone in whom they can put their trust, and who will be able to give them the training which will enable them to become less helpless and more independent. They need the sense of safety and security which is provided by some space they can call their own, in which they can rest and play according to their needs. They require such things as toys and play materials which will give them something to do, so that they can live the kind of life which helps them to develop and grow. Most of all they need a grown-up person who will understand their point of view and see when sympathy and help is needed. It is often very difficult to provide such necessities in the home where they are living. Many houses are more crowded than usual, and housewives are busier than they have ever been before. Many mothers who are in billets must be feeling that their own lives are cramped and that it is difficult to give their young children the care they know they ought to have.

The first necessity, obviously, is to find some place where young children who are not in school can be gathered together, and, under proper supervision, live a life that is suitable to their age. It is hoped that places of this kind, which will be referred to henceforward as "Nursery Centres," will be set up in the reception areas where they are most needed. What will be the important things to look out for in setting up a Nursery Centre?

*Accommodation.*

First of all, the Nursery Centre should be as near the homes of the children as possible, because they cannot walk far and it will not be easy to take and fetch them from a distance. It may consist of one group of from 10 to 20 children housed in one or two rooms; or of several groups of children in one house if the house is large enough. The accommodation should allow 15 square feet of space for each child. Some form of heating which is properly guarded must be provided, and there should wherever possible be cross-ventilation, or at least a means of obtaining a through draught. It must also be possible to obtain warm water, and if water closets are not available for the children's use there must be a proper supply of portable conveniences so placed that the children can be trained in decent and orderly habits. The floor space should admit of an arrangement of the children's beds or mats for resting so that they do not touch each other. The use of a garden would make life much easier and more interesting to all concerned with the Centre.

*Furniture and Equipment.*

The furnishing of a Nursery Centre should be as simple as possible. It is hoped that the rooms, to start with, will be empty of all unnecessary furniture, and as easy as possible to clean. The only pieces of furniture which are really necessary are chairs low enough for the children to sit on (old chairs cut down would do quite well), mats or beds to rest on, a few tables low enough for the children to use, and some kind of storage. In addition there must be some pegs on which to hang the children's coats (preferably outside the nursery room), enough bowls for washing, and enough pots for lavatory purposes. It will be dangerous to set up a Nursery Centre in any place where water cannot be obtained easily, for the lavatory arrangements must be kept perfectly clean, and the children must be able to wash.

As far as equipment is concerned, the bare essentials will be mentioned here. If the children are to wash there must obviously be soap and towels (preferably two for each child), and every child will need a blanket to wrap himself in when he rests. The simplest equipment to give first aid to minor cuts and bruises should be ready.

It is possible that the Local Education Authority for the evacuation area may be in a position to lend suitable furniture and equipment which has been in use in nursery schools or classes.

If several small Centres are set up in an area such as a village, or group of villages, it would be a great help if one house could serve as a sort of central store, where books and pictures and toys could be borrowed by any of the helpers. This central store could also serve as a meeting place, and anyone might leave gifts for the children's use which could be distributed. (A list of play materials and equipment suitable for gifts or loans is given on page 201.) In time this house or store will no doubt become a central meeting place for the mothers, who could sew there or give any other kind of help as it was needed. [585]

## 2. THE ORDER OF A YOUNG CHILD'S DAY

In order to understand what should be planned for a child's day in a Nursery Centre set up in war conditions, it will be best first of all to picture the kind of day that makes a contented child at home.

Whether he is rich or poor, the happiest child is one who lives in a home in which he feels safe, because he knows without any doubt that he belongs to it and that he is welcome there. For everyone the most comfortable home is one that is run with some order and regularity, and usually, within this order, some times in the day are fixed and must be observed punctually, while others are free for the family to use as they please. For instance, in the programme for the day there are times for getting up, having certain meals, doing various duties, going to bed, and there are times in which people do their own jobs or amuse themselves in ways they choose. In such

an ordered household a child knows that he will have meals, go to bed, and be kept warm and clean. He also comes to know that some grown-up person is responsible for the order, in fact, that it is usually the love and care of his mother that is making his life so secure and enjoyable. This knowledge does more than anything else to produce a happy, confident child, who moves about and speaks without fear, and gradually becomes more independent and helpful. It is not a good thing for a child to feel that he is the centre of this little world, but, on the contrary, he should learn that he is a member of the family who not only receives help from other members, but also helps the others himself.

It will be obvious that this simple picture of a home in which a child is brought up in an atmosphere of order, care, confidence and freedom shows by sheer contrast exactly what the child is likely to miss in the strange disorganised conditions of war-time. The mother, or hostess, may feel that she can manage to produce the steady routine which provides for meals, cleanliness, warmth and a comfortable bed. But there will be little or no means of coping with the ceaseless activity of the young children during the day, and instead of developing happily with the knowledge that they are safe, free and welcome, these children are in danger of becoming a burden to themselves and a trial to other people.

This is exactly where the opportunity of the Nursery Centre and its warden lies. Gathered together in a Centre, however simple and unpretentious, the children will be able to feel that there is here a place where they can live the kind of life that is interesting to them, but not acceptable to grown-up people, and also that there will be here a warden who has time to talk and play with them.

Two things will be the absolute essentials of this war-time Nursery Centre: first of all a patient, cheerful warden who understands that the children will look to her to organise their day and help them in any way she can, and secondly, a room in which there is an order that children will recognise where things can be found and put away in their right places, and where personal treasures can be brought and stored.

The description of the routine of a well-ordered home makes it clear that there is not only the regularity of fixed duties, but also the time for personal business and amusement. The child needs *both* kinds of order as much as the grown-up, and in the Centre he finds the chance of doing the things which are his own private business. Here he is among other children of his own age: he can play with materials which interest him and talk quite freely about anything which occurs to him. The routine of the home together with life in the Centre make up a child's complete day, consisting partly of taking his place in the family at home, and partly of doing things which are only interesting to children like himself.

Thought of in this way, the child's day will consist of a programme somewhat as follows:—

*At Home.*

Get up . . . attention to hair, washing, dressing.  
Breakfast . . . going to the lavatory.

*At the Centre.*

Play . . . including playing with toys, going for walks, conversation, stories, singing, etc.  
Preparation for dinner (if possible), washing, going to the lavatory.

*At Home.*

Dinner. Followed by washing and going to the lavatory.

*At the Centre.*

Rest.  
Play.  
Preparation for going home.

*At Home.*

Tea.

Quiet play.

Bed . . . If possible, bathing or washing, attention to hair, going to lavatory. [586]

## 3. PLAY

Every young child wants to play, but play is much more important in his life than mere enjoyment. It is as necessary to him as work and leisure are to the adult, and as food and drink are to us all. The ways in which a child plays are very varied, for almost everything he sees in the world interests him and becomes part of his play. He explores, touches, handles, and is curious about the things around him, and all that he discovers in this way he uses in play. Most children know how to play and do not need to be taught. They feel a strong urge to play, and it is much more necessary to provide them with opportunities than to show them how to do it. But there are children who are slow to make effort, and who are timid and dependent in character, and these will need help. An important part of the work of the warden will be to know and recognise the various ways in which a child occupies himself in play, in order to be ready to see that the means and materials are at hand to make his activities possible, and to take an interest in the kind of play he chooses.

- (a) Anyone who watches a young child will realise that one kind of play he finds satisfying is that in which he exercises his big muscles, and tries to use his arms and legs in large movements. He likes to climb ladders, steps or walls, to push or drag heavy carts, and, in general to attempt things which offer some physical difficulty. This muscular play is quite natural, and it will be good if the Nursery Centre or its garden provide some opportunities for the child to throw himself into this kind of play.
- (b) Another kind of play is that in which the child tries experiments with the nature of different materials, such as water, sand or soil, or with clay or dough. Again, it will not be necessary to show a child what to do with these materials. To provide some of them for him to play with is quite enough.
- (c) Another natural activity is playing at being other people—mothers and fathers, nurses at the clinic or hospital, postmen, soldiers, etc. This play incidentally includes a great many of the real occupations of life, and as children know best about the occupations of their mother, they will enjoy doing such things in their play as making beds, sweeping, mopping up spills, dressing dolly and taking her out, having a wash day, cooking (with flour and water), having tea parties, polishing the furniture, and so on. Children do not always impersonate human beings, but are equally happy playing at being motor cars, aeroplanes, horses, birds, etc.
- (d) Another kind of play might be described as “creative,” and here a child must have some material to make his play worth while. For this play he needs bricks, or any other material with which he can build, bits of wood, boxes of all kinds (match boxes, soap boxes, etc.) both large and small. Small toy animals, little motor cars, in fact, any small toys that can be obtained, will be used in a most resourceful way by children in this kind of play.
- (e) Children are also very interested in play in which they use their hands and fingers, and for this, again, some material must be collected. The kind of activities which are referred to are threading beads or bobbins, sorting beans, pebbles, shells, etc., fitting small things into larger ones, doing simple jigsaw puzzles, or any similar activities.

- (f) Children also like to scribble, to paint, to tear and cut, and if reasonable opportunity is given for this kind of play, much destruction of other people's property will be prevented. Odd scraps of paper, both large and small, should be collected, and if possible chalks, paint, brushes and scissors. If no brushes are available children will be very satisfied to use a mixture of paste and distemper with their fingers. If possible, a collection of picture advertisements should be made, which children could cut out with scissors and perhaps paste into scrap books.
- (g) Children love to sing and dance. If the warden can sing, or mark rhythm by tapping a drum, the children will soon make up their own dances, either alone or with other children. They will enjoy sitting together and having a little sing-song of nursery rhymes.
- (h) Picture books and stories have a place in children's play. They will like best to hear stories about other children who have experiences like their own, or about the animals they know, or stories made up about the pictures in their books. Stories told to young children should be short, and should end happily, and it is very important that the good things and the good people in the stories should be successful.

The time spent in the Nursery Centre will be of most value to the children if there is some kind of order in the day. Though, of course, changes of weather and special interests must make it necessary to change the programme, the children will like to feel that they know what will happen from hour to hour.

Some such programme as this for a day in the Centre might be followed:

- 9.00 a.m. Come to the Centre.  
Say "Good Morning."  
Hang up coat and hat.  
Play with toys indoors or in garden.
- 10.00 a.m. Perhaps it will be possible to give the children milk. If so' make the meal an orderly occasion, and let the children clear it away.
- 10.30 a.m. Any of the following :—  
Stories, Nursery Rhymes, Dancing and Singing.  
Talks about things of interest.
- 11.30 a.m. Preparation for going home, putting mats or beds ready.  
(Time at home.)
- 1.30 p.m. Come to Centre.  
Take off hats, coats and shoes.  
Rest and sleep.
- 3.00 p.m. Let the children get up as they wake, but do not wake them.  
onwards Put on shoes.  
Put away mats or beds.  
Play, including pictures and stories.  
Put toys and materials away.
- 4.00 p.m. Dress to go home.  
Say "good-bye."

(Duties such as washing and going to the lavatory should be planned for regular times (see Section 2) but also allowed whenever necessary during the day.)

*Play materials and equipment which would be very welcome as gifts or loans to a Nursery Centre:*

*Piano, Wireless or Gramophone (on loan).*

*Dolls.* Unbreakable dolls of different sizes, dolls with dresses the children can take off and put on, rubber dolls which can be washed.

*Dolls' Accessories.* Tea things : dolls' furniture which is strong : wooden boxes which could be used as dolls' houses. Dolls' beds with bedclothes which are like real bedclothes of the right kind, dolls' prams which are not too small and are as strong as possible.

*Boxes* of all kinds : strong wooden boxes that can be used as carts, match boxes, soap boxes.

*Miscellaneous* Bricks, strips of wood, blocks, or planks.

*Play* Sand from the seaside or the village builder.

*Materials.* Tricycles, pushcarts, scooters, wheelbarrows.

Hoops, old tyres, parts of broken toys such as wheels, tops, balls, strong rope, brooms, mops, dust-pans, buckets and spades, gardening tools.

Chalks, paints, large brushes, books of wall paper, scissors. Tins of paint.

Old sink or bath, pieces of hose pipe for water play.

Picture books, nursery rhyme books.

Soft toys that can be washed.

*Materials for dressing up.* Soldier's hat, postman's cap, conductor's bag, nurse's cap. Old lace curtains, cardboard crowns, ladies' handbags, etc.

*Overalls.* It will be very evident that if play is to be satisfactory to a child it is impossible for him to remain tidy and clean all the time. It will therefore be of immense benefit if the children can be provided with overalls which will protect their clothes. [587]

#### 4. STAFF

##### (a) *The Superintendent.*

The Superintendent will be a qualified teacher who has had experience with children of this age and knows their needs. Her work in this new war-time scheme is not to have special contact with any particular group of children, but, rather, to look after the well-being of all the centres in her charge. She will be finally responsible for the general organisation of each centre : she must be prepared to help the wardens, know the children well, and see that arrangements are made for the visits of doctor and nurse. She should make opportunities for gathering the wardens together and giving them the definite help and advice which workers with young children require. In general, her work is in relation to four groups, the children, the wardens, the voluntary helpers, and the mothers, and she will probably be able to use all the resources of the district to increase the well-being of her Nursery Centres.

##### (b) *The Warden.*

From what has been said of the children's day in the war-time Nursery Centre it is obvious that the work of the warden is extremely important, but if she loves and understands children the job will not be overwhelming ; it will certainly give her a great deal of pleasure and be a fine piece of national service. Whatever the warden attempts, she must always rely on herself, and tackle difficulties in a common-sense way.

*Arrangement of the Centre.*

The first care of the warden should be to arrange the Nursery Centre in such a way that children can help themselves to the play materials they need, and arrange everything so attractively that they are encouraged to be active. In other words, the warden must try to make the Centre look as nice as possible. She must show the children where to find their toys and materials, and then teach them to help tidy it all up before leaving.

It is better to place hats and coats outside the Nursery, but if the Centre consists of one room only, it must be decided where the pegs can most conveniently be placed, which corner can be used for wash-bowls and towels, where the bigger toys and the bath or bucket for water play can stand, on which shelf dolls are to be kept, and so on. If a great deal of toy material has been collected the warden would be wise to put a certain amount away somewhere else, and leave just enough things within the children's reach. In any case it is best to begin with only a few things, and as the children become accustomed to playing with them and can take care of them, to add more gradually.

*The Lavatory.* News from reception areas has drawn attention to the inconveniences and dismay caused by some of the physical habits of the children. This difficulty has been due partly to the upset of leaving home and coming to strange places, and partly to lack of training. If the warden is prepared to deal kindly and sympathetically with this matter her work will be of great service to the children.

Of course, the work of the warden will be greatly eased if there is a water closet within reach of the Nursery Centre. If a water closet is available, it is necessary to see that it is adjusted in some way to meet the needs of such small children, and it must be kept perfectly clean. If no water closet is near by, a corner of a room must be screened off, and pots, a pail with a lid, and a large can of water, provided. This improvised lavatory should, if possible, be near a door so as to avoid any more carrying than is necessary, and in fine weather it might be arranged outside. Wherever it is, it will be the warden's job to see that the lavatory is emptied and kept scrupulously clean. The habit of going to the lavatory at regular times is one she must help the children to learn. She must bear in mind that this may not be easy for all children, and that many children suffer a good deal of anxiety with regard to it. It is very important to take this part of the work of the Nursery Centre simply and naturally: if accidents occur, they must be taken calmly, and the children must come to know that the warden can be relied upon to help them in their need. Good habits will develop naturally if the warden is prepared to be perfectly sensible about the normal working of the body.

*Washing.* Learning to wash and dry hands and face is a great joy to young children, and time should be allowed for this. The child has a great deal to learn about the movements of washing and managing water, soap and towel, and the warden should try to arrange that every child has the opportunity of washing as well as he can once a day.

*How to play with the children.* Many children have a clear idea as to what kind of play they would like to choose during the day. These present very little difficulty to the warden. For them the main need is material to play with, and the warden's work will be to see that some materials are available and to take an interest in what the child does. It is often found that this particularly active type of child needs to be reminded that he cannot have all the toys for himself!

There is also the slower child who seems shy and timid; he will probably enjoy watching the others for a time. He will be pleased if the warden will show the toys to him, and bring some of the materials to his notice. It will perhaps give him confidence if the warden will play with him sometimes.

Some children in their present uncertain conditions will cling to the warden more than is normal, because they may have lost their sense of independence for the time being, and need her support for almost everything

they do. She must look out for this tendency, and be prepared to give patiently what help she can, watching and encouraging every sign of regained confidence. This will show itself in very simple ways, for instance, putting on hat and coat, or deciding what toy to play with.

Another kind of child is the one who is bumptious and interfering, who will take a delight in knocking down bricks, removing the dolls' bed from a little mother, and generally spoiling other children's fun. This is not a happy child, and the best way of helping him is to ignore his interferences as much as possible, and yet to remember that he may be making play impossible for other children. This child looks to the warden to be really firm and to prevent him from hurting others. She should adopt a strong line with him, and then try to find some material that will hold his attention.

The children may want to play alone, or with the others. The dancing and singing times will give them a chance of playing all together. When playing with toys the warden should leave the children to choose whether they play alone or with each other.

This gives some idea of the variety of children which will come under the warden's care, and indicates the need for being adaptable, and playing with them in such a way that they will become happy members of a group. The warden should be prepared to give applause for something of which children are proud, and to admire the dancing, or the building, or any achievement and be ready to point out to the other children the success of a slower child.

The attitude of the warden should not be dictatorial; on the contrary, she should be ready to share her life with the children. Whatever talents she herself possesses will be valuable, and she will be able to use them to interest and help the children. For instance, they will love her to sing to them, to tell stories, to draw pictures for them. They will be sure to take an interest in her own hobbies and be ready to share her personal pleasure in such things as colour, rhythm, flowers, or pets. In short, the warden need not feel she must give up her own interests for the work of running a Nursery Centre; everything she can do will make her work richer and more successful.

(c) *Voluntary helpers.*

The work of the warden in a Centre will be very varied, and it would clearly be a help to her if she could distribute some of her duties to other helpers. The local Committee will, it is hoped, have many offers of assistance from friends in the neighbourhood, and the most useful help they could give would be to undertake regular and definite duties. Among such duties would be work of all kinds at the Centre which should be arranged by the Superintendent and Warden on a definite time-table. Other kinds of duties could be done outside the Centre, and these might include washing overalls, collecting toys or materials, mending, taking children to and from the Centre or to the doctor, gardening, etc. It cannot be emphasised too strongly that the most useful kind of help is that which is given *regularly*, so that the warden can rely upon it, and the helper and the children get to know each other well. [588]

## RECOVERY OF BILLETING CHARGES FOR SCHOOL CHILDREN

### LEGAL PROCEEDINGS

*Circular 1946*

*January 4, 1940*

SIR,—I am directed by the Minister of Health to refer to his circular letter of the 4th October (Circular 1877 and 1877A) relating to the recovery of billeting charges for school children.

The Minister understands that in the great majority of cases the amount, if any, payable by the parent has now been satisfactorily settled either by the acceptance of an offer voluntarily made by the parent, or by the procedure of assessment laid down in the circular letter referred to above, and he desires to express his appreciation of the skill and energy which has been displayed in this matter by the responsible officers.

He understands also that, in general, payments in accordance with the offers or assessments made are being duly received, but there will no doubt be a minority of cases in which default is made and the necessary action for securing payment will call for consideration. The Minister would be glad if, in pursuance of the direction given in Circular 1877 (1877A), your Council would instruct the appropriate officers of the Council to proceed on the lines indicated in the enclosed memorandum. (Rec. 7.)

It will be observed that if it becomes necessary to take legal proceedings the procedure will be by way of a complaint made on behalf of the Minister before a Court of Summary Jurisdiction. [589]

I am, Sir, etc.

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*Memorandum Rec. 7*

**RECOVERY FROM PARENTS OR OTHER PERSONS LIABLE  
OF BILLETING CHARGES FOR SCHOOL CHILDREN**

1. Every effort should be made to obtain payment from the parent of the sum which he has agreed to pay or at which he has been assessed, without recourse to legal proceedings. Much can be done by the use of reminders, and wherever possible the parent should be interviewed. A letter indicating that legal proceedings will be taken (see paragraph 4 below) should be sent only after all other methods have failed and the responsible officers are satisfied that the case is one in which proceedings would be justified. [590]

2. The matter is one in which a large discretion must necessarily be left to the responsible officers. On the one hand, it is important that it should be widely recognised that the billeting charges are debts which must be paid, and a few cases of successful proceedings in local Courts will no doubt do much to bring this home to the mind of the public. Moreover, the refusal of a parent to meet his obligations in this matter, if allowed to go unchallenged, is unfair to the many others who have shown themselves ready to contribute to the best of their ability, and will naturally arouse a sense of injustice. On the other hand, for obvious reasons, it is not desirable under present conditions to multiply legal proceedings, and responsible officers will be aware from their experience of similar work that in some cases the prospect of recovering any payment is so slight as to make it inadvisable to take action. In general, the type of case which should be selected for legal proceedings is one in which the ability of the parent to pay is beyond doubt, and all applications for payment have been ignored. At the other end of the scale there may sometimes be cases in which, either through change of circumstances or for reasons which have come to

light in the course of correspondence or interviews with the parent, it might be reasonable to reconsider the assessment and to accept, in full discharge, something less than the whole of the arrears. [591]

3. When payments at a rate lower than the assessment are offered, they should be accepted pending consideration of further action, but (apart from exceptional cases of the kind mentioned in the last sentence of the preceding paragraph) it should be made clear to the parent that such payments do not constitute a full discharge of the debt and are accepted only on account. [592]

4. Some notes on the legal aspects of the procedure for recovery are contained in the Appendix to this memorandum. It is contemplated that lists of cases for proceedings will normally be prepared by the officers responsible for the collection of contributions, whose experience will no doubt be of value in the selection of the cases. These lists should be submitted by them to the Council's legal department. The Minister is advised that, for reasons which appear in paragraph 4 of the Appendix, it will be necessary for legally qualified officers to conduct the proceedings. The responsibility for sending the final communication indicating that proceedings will be taken should rest with them, though it may be convenient administratively for this communication to be signed and despatched by the officer responsible for the collection. [593]

#### APPENDIX TO MEMORANDUM REC. 7

1. Regulations 22 (5) and 31A (2) of the Defence Regulations, 1939, provide that the sums paid by the Minister in respect of billeting fees and medical attendance shall be recoverable summarily as a civil debt from the persons therein specified. It follows that when proceedings become necessary the proper procedure is to take civil debt proceedings in a Court of Summary Jurisdiction and that proceedings in the County Court will not be appropriate. The procedure is laid down in paragraphs 36 to 44 of the Summary Jurisdiction Rules, 1915, and it will of course be borne in mind that if the defendant fails to pay the debt in accordance with the order of the Court he cannot be committed to prison unless the complainant after the issue of a judgment summons satisfies the Court as to the defendant's means. [594]

2. The Regulations empower the Minister to recover from (a) the person concerned or (b) his personal representative or (c) any person liable to maintain him. The question of liability to maintain a child is discussed in paragraph 2 of Memorandum Rec. 1 and attention is also called to the provisions of section 14 of the Poor Law Act, 1930. [595]

3. Proceedings must be taken within six months from the date on which the matter of complaint arose, so that it will not be possible to institute proceedings in respect of a weekly payment that was due more than six months before the date on which proceedings are instituted. [596]

4. As stated in the accompanying Circular 1946 the complaint should be laid by the appropriate officer of the local authority on behalf of the Minister, and in filling up the necessary forms it should be stated that the officer is acting in this capacity. In view of the fact that the officer is acting in this matter on behalf of the Minister and not on behalf of the local authority the Minister is advised that it is doubtful whether the provisions of section 277 of the Local Government Act, 1933, enabling lay officers of local authorities to conduct proceedings in Court cover this class of case. It appears necessary, therefore, that the cases should be conducted in Court by one of the Council's legal officers. [597]

5. The sum to be claimed will never exceed 6s. per week per child, and this will be the position even though the parent may have offered to pay a sum in excess of 6s. and this offer has been acknowledged on model letter 2A. If the responsible officer, or a Referee, has fixed a lower figure than 6s., this of course will be the appropriate sum. In this connection it is important to bear in mind that the basis of any legal proceedings is the liability of the parent under Defence Regulation 22 (5) to pay to the Minister the amount of any sum paid by the Minister to the occupier in respect of billeting charges, and in so far as the Minister has decided to claim a lesser sum from the parent he is to be regarded as acting under his power to remit charges contained in Regulation 31B of the Defence Regulations. In order to exercise this power the Minister has made the arrangements set out in the Circular under which he binds himself to accept the assessment made by the responsible officer or referee. But as a matter of law the right to recover depends on the Defence Regulations and any assessment is not legally binding on either the Minister or the parent. [598]

6. It has recently been decided by the High Court in the case of *Attorney-General v. Hancock* (reported in the *Times Newspaper*, 20th December, 1939) that the Courts (Emergency Powers) Act, 1939, does not bind the Crown, and accordingly the restrictions contained in that Act on the enforcement of an order of a Court in cases where the Court is satisfied that a person is unable to satisfy a debt by reason of circumstances directly or indirectly attributable to the war will not apply in these cases and the notices provided for in that Act and the Rules made thereunder *should not be served*. The Minister is, however, anxious that the principles underlying the Act should be regarded as applicable, and the elaborate procedure for assessing the financial capacity of the parent or other person liable was designed to secure this end. For the reasons suggested at the end of paragraph 2 of the memorandum there may be cases in which some reconsideration of the original assessment is desirable before the proceedings are commenced, and in any event before steps are taken to enforce an order of the Court by distress or the issue of a Judgment Summons the case should be re-examined and such steps should not be taken if the case is one where the defendant might have reasonably expected to obtain relief under the Act if it had applied. [599]

7. It is not thought that the proof necessary to support the proceedings will cause much difficulty in the ordinary case. In most cases there will have been correspondence with the defendant or he will have been interviewed by or on behalf of the responsible officer and the debt will have been admitted. It is possible, however, that in some instances the case will have to be strictly proved, as where the defendant has ignored all letters and it has not been possible to interview him. In such cases it would seem necessary to be ready with proof (a) that the child or children in question were billeted during the weeks in respect of which the claim was made; (b) that the occupier of the premises was paid by the Minister in respect of such billeting, or in other words drew the billeting fees from the Post Office; and (c) that the complainant has demanded the sum claimed from the defendant but that it has not been paid. It may also be necessary to have in Court the billeting notice or notices covering the weeks in respect of which the claim is made which will show that the occupier has drawn the weekly sums from the local Post Office, and some evidence showing that the children in respect of whom the money was drawn were the children of the defendant. In cases where it would be costly and difficult to prove the case strictly, it may be considered advisable to give notice to the defendant suggesting the admission of certain facts. [600]

8. If questions of difficulty arise either before or in the course of proceedings, the matter should be referred for consideration in the Ministry. It is possible that some of the earlier cases may give rise to points of difficulty from a legal aspect, and the Minister would wish to be consulted if any question of an appeal from the decision of the Justices by way of a stated case arises. [601]

9. The Defence Regulations, 1939, on which all proceedings will be based, are within the provisions of the Documentary Evidence Act, 1868, as amended by the Documentary Evidence Act, 1882, being an Order made by His Majesty by and with the advice of the Privy Council. These Regulations may therefore be put in evidence in Court by the production of a copy purporting to be printed and published by H.M. Stationery Office.

There are certain other Orders made by the Minister prescribing billeting fees, etc., e.g. S. R. & O., 1939, No. 987, S. R. & O., 1939, No. 1646 and S. R. & O., 1939, No. 1535, but it does not seem to the Minister that it will be necessary to put these Orders in evidence in these proceedings. [602]

4th January, 1940.

Ministry of Health.

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## CONTINUANCE OF BILLETING ALLOWANCES DURING HOLIDAYS AND OTHER ABSENCES OF CERTAIN CLASSES OF BILLETED PERSON

*Circular 1996 (Ministry of Health)*

*Circular 1507 (Board of Education)*

*April 19, 1940*

1. The Minister of Health and the President of the Board of Education have now made arrangements under which in the case of certain classes of billeted person the payments to the householder can continue during the absence of the billeted person when away from his billet for a period of not more than a fortnight. [603]

2. The persons in respect of whom this arrangement is made are :—

- (a) Teachers and helpers billeted in connection with the Government Evacuation Scheme.
- (b) Non-teaching staff employed by Local Education and other Authorities of evacuation areas who have been transferred in a quasi-permanent capacity in connection with the Government Evacuation Scheme for service in a reception area.
- (c) Doctors, nurses and other hospital staff billeted in accordance with the authority given in Circular 1857A of the 27th August last. [604]

3. The conditions of the arrangement are :—

- (a) When a billeted person is away from his billet on official duty, or on holiday, or by reason of illness for a period of not more than a fortnight, the billeting notice should not be withdrawn, and the householder on whom the notice has been served may continue to draw the appropriate billeting allowance.
- (b) When a billeted person leaves his billet on official duty, or holiday, or by reason of illness, for a period which it is known or can reasonably be assumed will be longer than a fortnight, the form should be withdrawn forthwith.

- (c) Where a billeted person, who was expected to be absent from his billet for no longer than a fortnight, is actually absent for a longer period, the billeting notice should be withdrawn at the end of the fortnight following the date when he left the house. Billeting moneys drawn by the householder during this period need not be recovered, but recovery should be sought if any further allowances have been drawn. [605]

4. Wherever a billeting notice is withdrawn, the personal belongings of the billeted person must be removed from the billet, unless the householder has agreed that they should remain. This agreement must be a matter for private arrangement between the person billeted and the householder. Billeting Officers, at the time of withdrawal of the billeting notice, should ascertain that this requirement has been complied with. [606]

5. Where the billeted person is employed by or is working under the direction of the Local Billeting Authority, no difficulty should be experienced in arranging for the billeting notice to be withdrawn as required. Where the billeted person is employed by the Local Education Authority or by the Welfare or Local Supervising Authority of an evacuation area or by a Hospital Authority, or where his salary is paid by the Governing Body or by the Managers of a State-aided school in an evacuation area, arrangements should be made by the employing Authority or by the Body responsible for paying the salary of the billeted person to notify the Local Billeting Authority of all cases falling within the scope of paragraphs 3 (b) and (c) above. In the case of teachers the Minister and the President suggest that the most convenient machinery for ensuring liaison on this matter between the Authority or Body responsible for paying the teachers' salaries and the Billeting Authority, will be for the head teacher to be made responsible for keeping the Chief Billeting Officer informed of all absences of members of his staff falling within the scope of these paragraphs. Where evacuated schools have been merged with local schools there may be no head teacher from the evacuation area. It is therefore requested that Local Education Authorities of reception areas, as well as those of evacuation areas, should give appropriate instructions to their head teachers on the matter. [607]

\* \* \* \* \*

## CASES

*Emergency Legislation—Billeting—Billeting Notice on Householder—Complaint Lodged against Notice but not Heard at Time of Hearing before Justices—Refusal to Comply with Billeting Notice—Whether Billeting Notice Operative before Complaint Determined by Tribunal—Defence (General) Regulations, 1939 (S. R. & O., 1939, No. 927), r. 22 (1), (8), (9).*

On Nov. 1, 1939, respondent, whose husband was the driver of a school omnibus, was served by a properly constituted billeting officer with a billeting notice requiring her to furnish board and lodging for two children. The two children who were present at the time of the service of the notice on respondent, were then in quarantine after

having suffered from diphtheria. Respondent refused to furnish the board and lodging required, and on Nov. 3 she lodged a complaint against the billeting notice with the tribunal set up by the Defence (General) Regulations, 1939, r. 22 (9), but, before the complaint had been heard, she was charged, under r. 22 of those regulations with having on Nov. 1, 1939, when served with a billeting notice, failed to comply with the notice. At the hearing before the justices, it was contended on behalf of respondent that, as she had complained against the billeting notice, it did not become operative until the complaint had been determined by the tribunal. On behalf of appellant, it was contended that the notice was operative from the moment when it was served, and remained operative unless and until it was cancelled or varied by the tribunal:—

*Held*: it was clear from the terms of the regulation that the notice was operative from the moment when it was served, and that its operation was not stayed by the appeal to the tribunal.—*MEE v. TOONE*, [1940] 1 K. B. 638; [1940] 2 All E. R. 155; 109 L. J. K. B. 594; 163 L. T. 95; 104 J. P. 227; 56 T. L. R. 523; 84 Sol. Jo. 427; 38 L. G. R. 202. [608]

## EXPLOSIVES

*See* REGULATED INDUSTRIES, TRADES AND BUSINESSES.

## FACTORIES

CASES:—

Fulham Borough Council v.

A. B. Hemmings, Ltd., [1940]

3 All E. R. 625—D. C. — — 209

## CASES

*Basement Bakehouse—Notice Revoking Certificate of Suitability—Appeal against Notice—Premises rendered Suitable before Decision by Court of Summary Jurisdiction—“Is Suitable”—Factories Act, 1937 (c. 67), ss. 53 (3), 54 (2), (3).*

On May 12, 1939, appellant council served upon respondents, who owned a small underground bakehouse in respect of which a certificate of suitability had been issued, a notice under the Factories Act, 1937, s. 54 (2), that the certificate should cease to have effect after the expiration of six months on account of, *inter alia*, inadequate ventilation. Respondents appealed under sub-s. (3), which allows the court, “if it is satisfied that the bakehouse is suitable as regards” ventilation, to direct that the certificate shall continue to operate. It was found by the magistrate as a fact that, up to a date between June 23, 1939, and July 20, 1939, the ventilation was inadequate and unsuitable. However, between those dates, during an adjournment of the hearing of the appeal, resps. spent £600 in improving the ventilation of the premises by installing an electrical air-conditioning apparatus, and thereafter the ventilation was in all respects satisfactory. Appellants contended

that alterations made after the commencement of the hearing of the appeal should be disregarded and the question considered as at the date of the notice, but the magistrate considered that, by reason of the express words of sub-s. (3), he was justified in taking into consideration the state of the premises at the time when he had to consider whether or not they were suitable and accordingly directed that the certificate should continue to operate. The council appealed from this determination :—

*Held* : the magistrate had taken the correct view by reason of the wording of sub-s. (3). The words “is suitable” must be construed in accordance with their plain grammatical meaning, and it is, therefore, for the court to decide at the time when it is determining the matter, whether or not it is satisfied that the premises are suitable.—*FULHAM BOROUGH COUNCIL v. A. B. HEMMINGS, LTD.*, [1940] 2 K. B. 669; [1940] 3 All E. R. 625; 163 L. T. 287; 104 J. P. 392; 56 T. L. R. 985; 38 L. G. R. 408—D. C. [609]

## FINANCE

*See also* RATES

ORDERS, CIRCULARS AND MEMORANDA :—		PAGE	Interest on Loans—Circular		PAGE
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Treasury Minute fixing Rate of Interest on Local Loans	—	211	Treasury Circular ; Defence (Finance) Regulations, 1939, Regulation 6	—	213

## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL ADDING REGULATION . . . 54BA TO . . . THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1940, No. 1885

October 24, 1940

\* \* \* \*

4. After Regulation fifty-four B of the principal Regulations, there shall be inserted the following Regulation :—

**54BA. “Supplementary provisions as to local authorities.”**—(1) The Minister of Health, if he considers it expedient so to do in the interests of the public safety, the defence of the realm, the maintenance of public order, or the efficient prosecution of the war, or for maintaining supplies or services essential to the life of the community, may give directions to any local authority authorising that authority to borrow money in such manner and on such terms as may be specified in the directions; and any local authority to which such directions are given shall have power, notwithstanding any obligation or limitation imposed on it by or by virtue of any Act or other instrument relating to its powers, to borrow in the manner and on the terms so specified.

(2) . . .

- (3) In the application of this Regulation to Scotland—
- (a) for any reference to the Minister of Health there shall be substituted a reference to the Secretary of State;
  - (b) the expression “local authority” means a local authority within the meaning of the Local Authorities Loans (Scotland) Act, 1891;
  - (c) . . .
  - (d) . . .
- (4) This Regulation shall not extend to Northern Ireland. [610]

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### TREASURY MINUTE, DATED OCTOBER 28, 1940, FIXING RATES OF INTEREST ON LOCAL LOANS

*S. R. & O., 1940, No. 1909*

*October 28, 1940*

My Lords read Section 1 of the Public Works Loans Act, 1897 (60 & 61 Vict. c. 51), which empowers the Treasury from time to time to fix the rates of interest at which loans may be made out of the Local Loans Fund on the security of local rates, and provides that the Treasury in fixing the rates, shall have regard to the duration of the loans, and also that the rates shall be such as, in the opinion of the Treasury, are sufficient to enable the loans to be made without loss to the Fund.

They also read Section 4 of the Public Works Loans Act, 1918 (8 & 9 Geo. 5, c. 27), by which it is declared that the power of the Treasury under Section 1 of the Public Works Loans Act, 1897, as amended by Section 4 of the Public Works Loans Act, 1917 (7 & 8 Geo. 5, c. 32), to fix rates of interest on loans made out of the Local Loans Fund otherwise than on the security of local rates includes (subject always to the provisions of the said Sections) a power to fix rates of interest differing from the rates fixed for loans made out of that fund on the security of local rates, and a power to fix different rates of interest in respect of different loans and that in fixing the rate of interest the Treasury may take into account the nature and value of the security for the loan.

They further read Section 92 of the Housing Act, 1936 (26 Geo. 5 & 1 Edw. 8, c. 51), and Section 73 of the Housing (Scotland) Act, 1925 (15 & 16 Geo. 5, c. 15), as amended by Sections 25 and 28 of the Housing (Scotland) Act, 1935 (25 & 26 Geo. 5, c. 41), which provide that loans may be granted to companies, societies, associations and persons as defined in those Sections in connection with the provisions of houses for the working classes.

The rates of interest were last revised by the Treasury Minute of the 9th May, 1939, when the minimum rate was fixed at 4 per cent. Monetary conditions, however, now justify consistently with the conditions laid down by the Acts cited in the first and second paragraphs above a reduction.

Accordingly, the Chancellor of the Exchequer recommends that the minimum rate for local loans be lowered from 4 per cent. to  $3\frac{3}{4}$  per cent. and that all other rates for local loans, whether secured on local rates or otherwise, be lowered by  $\frac{1}{4}$  per cent.

My Lords approve, and accordingly the following scales will come into operation as from the 1st November, 1940, and will apply to all loans advanced out of the Local Loans Fund on or after that date—

## I

*Housing Loans*

	Rate of Interest.
(1) Loans to Local Authorities secured on Local Rates for any purpose of the Housing Acts and the Housing (Rural Workers) Acts, 1926 to 1938.	
Any period ... ..	$3\frac{3}{4}$ per cent.
(2) Loans to Housing Associations as defined by the Housing Act, 1936, and the Housing (Scotland) Act, 1935.	
Not exceeding 30 years ... ..	$3\frac{3}{4}$ per cent.
Not exceeding 50 years ... ..	4 per cent.
(3) To Companies and Private Persons limiting their profits to the rate for the time being prescribed.	
Not exceeding 30 years ... ..	$3\frac{3}{4}$ per cent.
Not exceeding 40 years ... ..	4 per cent.
(4) To Companies and Private Persons not limiting their profits as aforesaid.	
Not exceeding 30 years ... ..	$4\frac{1}{4}$ per cent.
Not exceeding 40 years ... ..	$4\frac{1}{2}$ per cent.

## II.

*Other Loans.*

(1) Loans to Local Authorities for any purposes of the Small Holdings and Allotments Acts, 1908 to 1931, and the Allotments Acts, 1908 to 1931.	
Any period ... ..	$3\frac{3}{4}$ per cent.
(2) Other Loans secured on Local Rates :—	
Not exceeding 30 years ... ..	$3\frac{3}{4}$ per cent.
Not exceeding 50 years ... ..	4 per cent.
(3) Loans not secured on Local Rates :—	
(a) Loans under the Harbours and Passing Tolls, etc., Act, 1861 :—	
(i) With collateral security :—	
Not exceeding 30 years ... ..	$3\frac{3}{4}$ per cent.
Not exceeding 50 years ... ..	4 per cent.
(ii) Without collateral security :—	
Not exceeding 30 years ... ..	$4\frac{1}{4}$ per cent.
Not exceeding 50 years ... ..	$4\frac{1}{2}$ per cent.
(b) Other loans not secured on Local Rates (except loans to Territorial Associations, which, under Section 6 of the Public Works Loans Act, 1908, bear interest at the rate prescribed for loans on the Security of Local Rates) :—	
Not exceeding 30 years ... ..	$4\frac{1}{4}$ per cent.
Not exceeding 50 years ... ..	$4\frac{1}{2}$ per cent.

# HOUSING ACTS, 1935 and 1936, HOUSING (RURAL WORKERS) ACTS, AND SMALL DWELLINGS ACQUISITION ACTS. INTEREST ON LOANS, ETC.

*Circular 2205*

*November 22, 1940*

SIR,

I am directed by the Minister of Health to notify you that His Majesty's Treasury have directed that the rate of interest to be charged on loans, secured on Local Rates, made on and after the 1st November, 1940, from the Local Loans Fund to Local Authorities for any purposes of the Housing Acts, the Housing (Rural Workers) Acts, 1926 to 1938, and the Small Dwellings Acquisition Acts, 1899 to 1923, shall be  $3\frac{3}{4}$  per cent. The rate previously fixed was 4 per cent.

I am to remind you that by virtue of Sections 37 (3) and 92 (2) of the Housing Act, 1935, the rate of interest on (i) loans made by local authorities under the provisions of Section 2 of the Housing (Rural Workers) Act, 1926, and (ii) advances made by local authorities under the provisions of the Small Dwellings Acquisition Acts is fixed at a rate  $\frac{1}{4}$  per cent. in excess of the rate of interest which, one month before the date on which the terms of the loan or advance are settled, was the rate fixed by the Treasury in respect of loans from the Local Loans Fund to local authorities for housing purposes.

An additional copy of this Circular is enclosed for the use of the Financial Officer of the Authority and further copies may be obtained at any of the addresses shown below.

I am, Sir, etc.

The Clerk to the Local Authority.

[612]

\* \* \* \* \*

## REGULATION No. 6 OF THE DEFENCE (FINANCE) REGULATIONS, 1939

*Treasury Circular*

*March 28, 1940*

SIR,—1. Their Lordships have had under consideration the possibility of simplifying the procedure laid down in the Circular of the 24th November, 1939, so as to relieve Local Authorities as far as possible of the necessity for making separate applications for the sanction of the appropriate Department and for Treasury consent when both are required. [613]

2. As from the date of this Circular, Treasury consent to the issue of capital by a Local Authority (as required by the Defence (Finance) Regulations, 1939) will, where circumstances permit, be sent to the Local Authority concurrently with the sanction, approval or consent

to the borrowing by the appropriate Department (referred to in paragraphs 6 and 7 of the Treasury Circular). In that event no separate application to the Capital Issues Committee will be necessary. [614]

3. To ensure this result, the appropriate Department should be furnished with the following additional information, for transmission to the Capital Issues Committee, as regards any external borrowing for which Treasury consent is required :—

- (a) particulars (so far as available) of the borrowing proposed, *e.g.* amount, method (mortgages, bills, etc.) period and rate of interest ;
- (b) an assurance that the expenditure in respect of which the application for consent to a capital issue is made, cannot reasonably be met, either in whole or in part (subject to any necessary Departmental consent) by direct charge to revenue,\* reserve funds or other surplus revenues, or from any available internal resources, *e.g.* consolidated loans fund, mortgage pool, or other moneys which can properly be applied in the exercise of a borrowing power.

If exemption from the necessity of obtaining Treasury consent is claimed under the Capital Issues Exemptions (No. 3) Order, 1939, the grounds of such claim should be given and the particulars and assurances asked for above need not be given. [615]

4. Direct application to the Capital Issues Committee at 76, King William Street, London, E.C.4, will be necessary in due course (a) where the Treasury consent (if such consent is necessary) does not accompany the sanction, approval or consent of the appropriate Department, (b) where the Treasury consent indicates the necessity for a further application, (c) where the sanction of the appropriate Department was given or confirmed before the date of this Circular and Treasury consent has not yet been obtained and (d) for reborrowings effected externally unless exempted under the terms of paragraph 8 below. [616]

5. Treasury consent under Regulation No. 6 of the Defence (Finance) Regulations, 1939, is not required by a Local Authority when it proposes to meet capital expenditure by the use of available internal resources such as are specified in paragraph 3 (b) above. In such a case, however, the Local Authority is still under obligation to obtain any necessary consent of the appropriate Department to the borrowing or to the application of available moneys to the particular capital purpose. [617]

6. Their Lordships desire to make it clear with reference to paragraph 7 (a) of the Circular of 24th November, 1939, that where the sanction or approval or consent of the appropriate Department has been given on or before the 13th September, 1939, a further Departmental consent is required before the borrowing power is exercised in all cases except those covered by 7 (b) of that Circular. This applies even though Treasury consent may not be required to the issue of a security. [618]

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\* In the case of capital works undertaken in connection with a Council's Air Raid Precautions measures the assurance that the expenditure cannot be directly charged to revenue will not be required.

7. Their Lordships take the opportunity of reminding Local Authorities that under Defence (Finance) Regulation No. 6 (2), subject to such exemptions as may be granted by order of the Treasury, it is not lawful to issue any prospectus or other document offering for subscription, or publicly offering for sale, any securities which does not include a statement that the consent of the Treasury has been obtained to the issue or offer of the securities. This provision applies, *e.g.* to advertisements in the Press announcing that the advertiser is prepared to receive loans on mortgage. Unless therefore all the transactions to which the offer applies are exempt under the Capital Issues Exemptions (No. 3) Order, 1939, such announcements should include a statement in the following terms: "The Council has obtained the consent of the Treasury under the Defence (Finance) Regulations to the issue of [these mortgages]." For this purpose, "the consent of the Treasury" includes the consents given as regards renewals in paragraph 9 of Treasury Circular of the 24th November, 1939, and in the next succeeding paragraph of this Circular. [619]

8. Their Lordships hereby give their consent to the renewals by your Authority of mortgages and other obligations (except stock, bonds—other than local or corporation bonds—bills and promissory notes) maturing for payment within the period beginning on 1st July and ending on 31st December, 1940. This consent extends to the replacement of such mortgages or obligations in any manner otherwise than by the issue of stock, bonds (other than local or corporation bonds), bills and promissory notes. Their Lordships will be prepared in due course to consider whether this consent can be extended for a further period, but in the meantime, if your Authority desires to deal with renewals or replacements after 31st December, 1940, it should make application direct to the Capital Issues Committee for Treasury consent. [620]

I am, etc.,

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## FIREMEN

*See FIRE PROTECTION.*

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## FIRE PROTECTION

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### ORDERS, CIRCULARS AND MEMORANDA

#### ORDER IN COUNCIL AMENDING REGULATION . . . 27 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1217*

*July 10, 1940*

\* \* \* \* \*

4. Regulation twenty-seven of the principal Regulations shall be amended by inserting the following paragraphs at the end thereof :—

“(2) With a view to preventing the spread or facilitating the extinction of fire caused by incendiary bombs, the Secretary of State may by order make provision for requiring rooms or other spaces on premises to which the order applies to be cleared and kept clear of articles which are not affixed to the premises.

(3) Any such order may apply either to the whole of Great Britain or Northern Ireland or to any part thereof specified in the order, and either to all premises or to premises of such classes or descriptions as may be so specified.

(4) If the provisions of any order made under this Regulation are not complied with as respects any premises, the occupier of the premises shall be guilty of an offence against this Regulation.

(5) Any person authorised by the Secretary of State in writing, or by or under any such order, may at any time enter and inspect any premises to which the order applies for the purpose of seeing whether the order has been complied with; and if the person so authorised finds that the order has not been complied with, he may, without prejudice to any proceedings which may be taken for an offence against this Regulation, take such steps and use such force as may appear to him to be reasonably necessary for the purpose of securing compliance with the order.” [621]

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## ORDER IN COUNCIL ADDING REGULATION 27A TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1681*

*September 19, 1940*

At the Court at Buckingham Palace, the 19th day of September, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered that after Regulation twenty-seven of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

**27A. "Watching of premises to detect fire.**—(1) The Secretary of State may by order make provision for requiring that persons shall always be present on premises to which the order applies, and shall perform such duties and have such powers in connection with the detection and extinction of outbreaks of fire as may be specified in the order.

(2) Any such order may apply either to the whole of Great Britain and Northern Ireland or to any part thereof specified in the order, and may apply to premises of such classes or descriptions as may be so specified, subject to any exemptions for which the order may provide.

(3) Any constable, and any person authorised in writing by the local authority in whose area the premises are situated (being a local authority of such description as may be specified in the order) may at any time enter and inspect any premises to which any such order applies for the purpose of seeing whether the order is being complied with.

(4) In this Regulation references to premises include references to parts of premises that are separately occupied." [622]

\* \* \* \* \*

## ORDER IN COUNCIL . . . AMENDING REGULATION . . . 28 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1750*

*September 27, 1940*

\* \* \* \* \*

**4.**—(1) Regulation twenty-eight of the principal Regulations shall be amended by inserting after the word "duty" where it secondly occurs in paragraph (1), and after the word "therein" in paragraph (3), the following words :—

"The Secretary of State may by order provide for conferring on persons of such classes or descriptions as may be mentioned in the order the powers conferred on auxiliary firemen by the foregoing provisions of this paragraph."

(2) After paragraph (2) of the said Regulation twenty-eight the following paragraph shall be inserted :—

“(2A) For the purpose of promoting the efficiency of the auxiliary fire service, the Secretary of State may make rules for the discipline of the members of that service, and the rules may prescribe a code of offences against discipline, the procedure for dealing with those offences and the punishments which may be imposed, and may be made so as to apply either generally or to a particular area and either to all members of the auxiliary fire service or to any class or description of those members.

Regulation ninety-two of these Regulations shall not apply to rules made under this paragraph.” [623]

\* \* \* \* \*

## ORDER APPLYING CIVIL DEFENCE ACT, S. 58, TO THE FIRE AUTHORITY FOR THE COUNTY BOROUGH OF COVENTRY

*S. R. & O., 1940, No. 467*

*March 28, 1940*

In pursuance of the powers conferred upon me by sub-section (1) of section fifty-eight of the Civil Defence Act, 1939, I hereby order that the said section fifty-eight (which contains special provisions as to supply of water for extinguishing fires) shall apply to the fire authority for the county borough of Coventry. [624]

\* \* \* \* \*

## FIRE BRIGADES (GENERAL) ORDER, 1940

*S. R. & O., 1940, No. 507*

*April 8, 1940*

I, in exercise of the powers conferred on me by Regulations twenty-nine and thirty-eight of the Defence (General) Regulations, 1939, hereby order as follows :—

1.—(1) This Order may be cited as the Fire Brigades (General) Order, 1940.

(2) This Order shall come into force on the 18th day of April, 1940.

(3) This Order shall not extend to Scotland, or, except in so far as it makes provision for action being taken outside the areas to which it extends, to the London Special Fire Brigades Area, but save as aforesaid this Order shall extend to every area constituted a special fire brigades area by an order for the time being in force under Regulation twenty-nine of the Defence (General) Regulations, 1939 (hereinafter referred to as a “Regional Fire Order”) and, in relation to each such area, references in this Order to “the area” shall, except

where the context otherwise requires, be construed as references to that area. [625]

2. It shall be the duty of every officer of a fire brigade upon whom functions are imposed by or under this Order to exercise and perform those functions in accordance with the provisions thereof, and, in particular, to take such action as he may be required to take in accordance with the provisions of the First Schedule to this Order. [626]

3. It shall be the duty of the chief officer of every fire brigade named in the Table for any district in the area to cause the brigade to carry out such tests, exercises and drills as may be determined by the district officer with the approval of the Regional Commissioner, or as may be required by the Regional Commissioner as being necessary for the purposes of this Order. [627]

4. (1) At any fire to which this Order applies any person authorised by the Regional Commissioner in that behalf or, if no such person is present, the district officer for the district in which the fire is, if he is present, may take control of the operations for the extinction of the fire.

(2) Where a person has taken control of the operations for the extinction of a fire by virtue of this Article, he, instead of any other officer or person mentioned in subsection (3) of section fourteen of the Fire Brigades Act, 1938, shall have the sole charge and control of all operations for the extinction of the fire, and that subsection shall be construed accordingly as referring to him and not to any other officer or person. [628]

5.—(1) Where a district officer or an alternative operating officer is both the chief officer of a police force and the chief officer of a fire brigade, he may appoint as his deputy for the purposes of this Order an officer of that fire brigade; and the deputy so appointed may, subject to any directions of the officer by whom he was appointed, exercise and perform all the functions of that officer under this Order.

(2) If a district officer or an alternative operating officer is absent from his fire station or otherwise unable to act, the officer for the time being in charge of that fire station may, if authorised so to do by the district officer or the alternative operating officer, as the case may be, exercise and perform on behalf of that officer all the functions conferred upon that officer by this Order, except powers conferred by or under the last foregoing Article. [629]

6.—(1) This Order applies to any fire, however caused which is—

- (a) a fire within the ordinary protection area of a fire brigade named in the Regional Fire Order for any special fire brigades area;
- (b) a fire at a naval, military or air force establishment, or on any premises used for or in connection with the operation of any railway, or at any dock, ship-building yard or other premises where warlike material, food, or articles required for the production of such materials or food, are manufactured, handled or stored;
- (c) a fire specified in a determination of the Regional Commissioner, or a fire of any class or description so specified, being a fire within the area; or

(d) a fire specified in a determination of the Minister of Home Security, or a fire of any class or description so specified.

(2) A determination made under sub-paragraph (c) or sub-paragraph (d) of this Article may be made subject to such conditions as seem proper to the person by whom it is made, including conditions relating to the making of payments in respect of services rendered in pursuance of the provisions of this Order; and any such determination may be revoked or varied by the Minister of Home Security or by the Regional Commissioner as the case may be. [630]

7.—(1) Where services are rendered in pursuance of provisions of this Order at a fire to which this Order applies by reason of such a determination as aforesaid, and the determination was made subject to conditions relating to the making of payments in respect of services rendered in pursuance of the provisions of this Order, the authority or person by whom any fire brigade which has rendered those services is maintained shall be entitled to recover from the fire authority for the county borough or county district in which the fire was such charges and such expenses as may have been prescribed by the conditions.

(2) Save as provided by the last foregoing paragraph, no authority or person shall be entitled to any payment in respect of services rendered by a fire brigade in pursuance of the provisions of this Order. [631]

8. Nothing in this Order shall relieve the authority or person by whom any fire brigade is maintained from any obligation imposed upon that authority or person by subsection (1) of section one of the Fire Brigades Act, 1938, or by any arrangement made in pursuance of subsections (3) or (5) of that section, or by any other arrangement of a similar character, except in so far as the performance of any such obligation is rendered impossible by operations carried out in pursuance of this Order or by the performance of duties in pursuance thereof. [632]

9. In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say—

“Chief officer,” in relation to any fire brigade, includes any officer whose duty it is, for the time being, to act on his behalf;

“Fire authority” has the meaning assigned to it by section one of the Fire Brigades Act, 1938;

“Fire brigade” includes members of the Auxiliary Fire Service and other auxiliaries attached to a fire brigade or under the directions of the chief officer thereof or under the directions of a fire authority;

“London Special Fire Brigades Area” means the area constituted as such by an order for the time being in force under Regulation 29 of the Defence (General) Regulations, 1939;

“Major pump” means a pumping appliance with a capacity of not less than two hundred and fifty gallons per minute at 100 lb. pressure;

“Ordinary protection area” means, in relation to any fire brigade, the area ordinarily protected by that brigade, including any area in which the brigade is required to attend fires by virtue of any arrangements made under subsection (3) of section one of the Fire Brigades Act, 1938;

"Regional Commissioner" means the person appointed by His Majesty to be a Regional Commissioner for the co-ordination of measures of civil defence in the area, and includes any person whose duty it is, for the time being, to act on his behalf;

"Table" means a Table contained in the Regional Fire Order for the area. [633]

10. The Orders specified in the Second Schedule to this Order are hereby revoked. [634]

\* \* \* \* \*

### FIRST SCHEDULE

*Limitation of number of pumps which a Regional Commissioner, district officer, or chief officer may be called upon to despatch*

1.—(1) A chief officer of a fire brigade who may be called upon under this Schedule or under the Schedule to the Fire Brigades (London) Order, 1940, to despatch pumps outside the ordinary protection area of the brigade shall not be called upon under either or both of those Schedules to employ in answer to such calls more pumps than the aggregate of the numbers specified opposite to the name of that fire brigade in columns 4, 5 and 6 of the Table in which the brigade is named.

(2) A Regional Commissioner or district officer named in the Table for any district as a person who may be called upon under this Schedule to despatch pumps to that district shall not be called upon thereunder to employ at the same time in answer to such calls more pumps than the aggregate of the numbers specified opposite to the name of the Regional Commissioner or district officer in columns 4, 5 and 6 of the Table.

(3) A Regional Commissioner or district officer named in the Table for any district as a person who may be called upon under this Schedule to despatch pumps to that district, or the chief officer of a fire brigade so named, shall not be called upon under sub-paragraph (1) of paragraph 2 of this Schedule to employ at the same time in answer to such calls more pumps than the aggregate of the numbers specified opposite to the name of the Regional Commissioner, district officer or fire brigade, as the case may be, in columns 4 and 5 of the Table. [635]

### *Functions of district officers as to obtaining assistance*

2.—(1) Where a district officer is satisfied that the resources (including the resources available under any arrangement for assistance made under subsection (5) of section one of the Fire Brigades Act, 1938, or any similar arrangement) practicably at the disposal of a fire brigade in his district are insufficient to deal effectively with any fire therein to which this Order applies, he may call upon the chief officers of fire brigades named in the Table for his district, and upon district officers and Regional Commissioners so named, to despatch such number of pumps as he may require, subject, however, to the provisions of paragraph 1 of this Schedule:

Provided that a district officer shall not, under the provisions of this paragraph, call upon the chief officer of a fire brigade or upon a district officer or Regional Commissioner to despatch pumps in excess of the number specified in column 4 of the said Table opposite to the name of the fire brigade, district officer, or Regional Commissioner, as the case may be, unless the district officer is satisfied—

- (a) that the available total of the numbers of pumps specified in the said column 4 is insufficient to afford adequate assistance; or
- (b) that having regard to the special circumstances of the case it is necessary so to do in order to secure sufficiently prompt assistance.

(2) Where a district officer is satisfied that the number of pumps for which he can call under the foregoing provisions of this paragraph is insufficient for the purpose of dealing effectively with a fire to which this Order applies in his district, he shall inform the Regional Commissioner for the area, and if he is unable within a reasonable time to establish communication with that Regional Commissioner, he may call upon the chief officers of fire brigades named in the Table for his district, and upon district officers and Regional Commissioners so named, to despatch such number of pumps as he may require, subject only to the provisions of sub-paragraphs (1) and (2) of paragraph 1 of this Schedule. [636]

*Functions of Regional Commissioners as to obtaining assistance*

3. Where a Regional Commissioner is satisfied on the report of a district officer or otherwise that the resources (including the resources available under any arrangement for assistance made under subsection (5) of section one of the Fire Brigades Act, 1938, or any similar arrangement) practicably at the disposal of a fire brigade are insufficient to deal effectively with any fire to which this Order applies in his area, he may call upon, or may direct a district officer to call upon, the chief officers of fire brigades named in the Table for the district in which the fire has occurred and district officers and Regional Commissioners so named to despatch such number of pumps as he may require, subject, however, to the provisions of sub-paragraphs (1) and (2) of paragraph 1 of this Schedule. [637]

*Nature of assistance which may be called for*

4. Where in accordance with the provisions of this Schedule a Regional Commissioner or a district officer has power to call for the despatch of a pump, he may call for the despatch of a pump of less capacity than a major pump, or may, instead of calling for the despatch of a pump, require any apparatus which would normally be despatched with a pump to be despatched in a tender or other vehicle, or require the despatch of the whole or any part of the crew of a pump with or without such apparatus. [638]

*Functions of district officers as to despatching assistance*

5. A district officer who in accordance with the provisions of this Schedule is called upon to despatch pumps, or who is directed by a Regional Commissioner to call upon the chief officer of a fire brigade to despatch pumps, shall call upon the chief officer of one or more of the fire brigades named in the Table for his district to despatch pumps for the purpose of complying with the call or direction. [639]

*Functions of Regional Commissioners as to despatching assistance*

6. A Regional Commissioner who is called upon in accordance with the provisions of this Schedule or of the Schedule to the Fire Brigades (London) Order, 1940, to despatch pumps, may call upon, or direct the appropriate district officer to call upon, the chief officer of one or more of the fire brigades named in the Tables contained in the Regional Fire Order for the area of which he is the Regional Commissioner to despatch pumps for the purpose of complying with the call. [640]

*Miscellaneous provisions as to functions of chief officers of fire brigades*

7.—(1) Where the chief officer of a fire brigade is required in accordance with the provisions of this Schedule or of the Schedule to the Fire Brigades (London) Order, 1940, to despatch a pump, he shall forthwith despatch a major pump unless some other pump has been called for.

(2) Every pump despatched in accordance with the provisions of this Schedule shall be despatched with a crew and the appropriate apparatus.

(3) Where a chief officer despatches any assistance in response to a call made under this Schedule, he shall despatch that assistance in accordance with any directions given by the person by whom the call was made. [641]

8. The chief officer of a fire brigade which is designated in the Table for any district as a stand-by for another fire brigade shall, when required so to do by the district officer or the Regional Commissioner, man a pump and keep it standing by at a fire station in readiness to respond to a call in the ordinary protection area of that other fire brigade. [642]

9. If the chief officer of a fire brigade can establish communication within a reasonable time with neither the district officer nor the alternative operating officer nor any person authorised to exercise and perform the functions of such an officer under this Schedule, he shall inform the Regional Commissioner. [643]

#### *General*

10. Subject to any directions given by the district officer, it shall be the duty of the alternative operating officer to exercise and perform the functions of the district officer under this Schedule as occasion may require. [644]

11. Where a Regional Commissioner or a district officer has power to call for the despatch of a pump, he may require the pump to be held in readiness for despatch at such place as he may direct. [645]

12. Where it appears to a Regional Commissioner that a special appliance, or special apparatus or equipment, is required at a fire to which this Order applies, or at a fire in the London Special Fire Brigades Area, the Regional Commissioner may call upon the chief officer of any fire brigade named in the Regional Fire Order for his area to man and despatch such an appliance, or to despatch such apparatus or equipment, or to hold such an appliance, together with a crew, or such apparatus or equipment, in readiness for despatch in accordance with such directions as may be given by the Regional Commissioner :

Provided that where a fire brigade is equipped with more than one appliance of any special kind, the chief officer of that brigade shall not be required under this paragraph to send outside the ordinary protection area of the brigade more than one half of the appliances of that kind with which the brigade is equipped. [646]

13. Where the Regional Fire Officer for the London Special Fire Brigades Area is named in the Table relating to any district, he may be called upon to despatch pumps to that district as if he were a Regional Commissioner so named. [647]

#### SECOND SCHEDULE

The Fire Brigades No. 1 (Northern) Region Order of the 1st September, 1930. (S. R. & O., 1939, No. 1256.)

The Fire Brigades No. 2 (North Eastern) Region Order of the 1st September, 1939. (S. R. & O., 1939, No. 1257.)

The Fire Brigades No. 3 (North Midland) Region Order of the 1st September, 1939. (S. R. & O., 1939, No. 1258.)

The Fire Brigades No. 4 (Eastern) Region Order of the 1st September, 1939. (S. R. & O., 1939, No. 1259.)

The Fire Brigades No. 6 (Southern) Region Order of the 1st September, 1939. (S. R. & O., 1939, No. 1261.)

The Fire Brigades No. 7 (South Western) Region Order of the 1st September, 1939. (S. R. & O., 1939, No. 1262.)

The Fire Brigades No. 8 (Wales) Region Order of the 1st September, 1939. (S. R. & O., 1939, No. 1263.)

The Fire Brigades No. 9 (Midland) Region Order of the 1st September, 1939. (S. R. & O., 1939, No. 1264.)

The Fire Brigades No. 10 (North Western) Region Order of the 1st September, 1939. (S. R. & O., 1939, No. 1265.)

The Fire Brigades No. 12 (South Eastern) Region Order of the 1st September, 1939. (S. R. & O., 1939, No. 1267.) [648]

## FIRE BRIGADES (LONDON) ORDER, 1940

*S. R. & O., 1940, No. 508**April 8, 1940*

I, in exercise of the powers conferred on me by Regulations twenty-nine and thirty-eight of the Defence (General) Regulations, 1939, hereby order as follows :—

1.—(1) This Order may be cited as the Fire Brigades (London) Order, 1940.

(2) This Order shall come into force on the 18th day of April, 1940.

(3) This Order, except in so far as it provides for action being taken outside the area to which it extends, shall extend only to the London Special Fire Brigades Area constituted by an order for the time being in force under Regulation twenty-nine of the Defence (General) Regulations, 1939 (hereinafter referred to as the "Regional Fire Order"), and references in this Order to "the area" shall, except where the context otherwise requires, be construed as references to that Area. [649]

2. It shall be the duty of every officer of a fire brigade upon whom functions are imposed by or under this Order to exercise and perform those functions in accordance with the provisions thereof, and, in particular, to take such action as he may be required to take in accordance with the provisions of the Schedule to this Order. [650]

3. It shall be the duty of the chief officer of every fire brigade in the area to cause the brigade to carry out such tests, exercises and drills as may from time to time be required by the Regional Fire Officer as being necessary for the purposes of this Order, and no tests, exercises or drills shall be carried out by such a chief officer for those purposes except such as have been approved by the Regional Fire Officer. [651]

4.—(1) At any fire in the area the Regional Fire Officer or any person authorised by him in that behalf may, if present, take sole charge and control of all operations for the extinction of the fire.

(2) Where a person has taken sole charge and control of all operations for the extinction of a fire by virtue of this Article, then—

(a) if the fire is within the administrative county of London, section twelve of the Metropolitan Fire Brigade Act, 1865, shall, in relation to that fire, have effect as if a reference to that person were substituted for the reference in the said section twelve to the chief or other officer in charge of the fire brigade, and

(b) if the fire is not within the administrative county of London, subsection (3) of section fourteen of the Fire Brigades Act, 1938, shall, in relation to that fire, have effect as if a reference to that person were substituted for the reference to the senior officer or other person mentioned in the said subsection (3). [652]

5. If an assistant regional fire officer is unable to act, his functions under this Order may be exercised and performed on his behalf by any officer authorised by him for that purpose. [653]

6. No authority or person shall be entitled to any payment for services rendered by any fire brigade in pursuance of this Order. [654]

7. It shall be the duty of the chief officer of every fire brigade in the area to furnish to the Regional Fire Officer such information as the Regional Fire Officer may require for the purposes of this Order. [655]

8. The chief officer of a fire brigade in the area shall not, in pursuance of any arrangement made under subsection (5) of section one of the Fire Brigades Act, 1938, or any similar arrangement, despatch any pumping appliance out of the ordinary protection area of that brigade to any other place within the area :

Provided that nothing in this Article shall affect the provisions of any arrangement relating to fires occurring near the common boundary of the areas of two fire authorities. [656]

9. In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say—

“ Chief officer,” in relation to any fire brigade, includes any officer whose duty it is, for the time being, to act on his behalf ;

“ Fire authority ” includes the London County Council, but save as aforesaid has the meaning assigned to it by section one of the Fire Brigades Act, 1938 ;

“ Fire brigade ” includes members of the Auxiliary Fire Service and other auxiliaries attached to a fire brigade or under the directions of the chief officer thereof or under the directions of a fire authority ;

“ Fire brigade in the area ” means the London Fire Brigade and any fire brigade mentioned in the first column of Part I of the Table ;

“ Major pump ” means a pumping appliance with a capacity of not less than three hundred gallons per minute at 100 lb. pressure ;

“ Ordinary protection area ” means, in relation to any fire brigade, the area ordinarily protected by that brigade, and includes any area in which the brigade is required to attend fires by virtue of any arrangements made under subsection (3) of section one of the Fire Brigades Act, 1938 ;

“ Regional Fire Officer ” means the person designated as such in the Regional Fire Order and includes any person whose duty it is, for the time being, to act on his behalf ;

“ Table ” means the Table contained in the Regional Fire Order.

[657]

10. The London Fire Region Order of the 1st September, 1939, is hereby revoked. [658]

\* \* \* \* \*

#### SCHEDULE

*Limitation of number of pumps which may be required to be despatched from any fire brigade or London Fire Brigade station*

1.—(1) Not more than one half of the major pumps or one quarter of all the pumps (including in either case emergency pumps) with which a fire brigade in the area is equipped, whichever is the less, shall be required to be despatched from that brigade under this Schedule.

(2) The number of pumps to be despatched from any fire brigade or London Fire Brigade station in answer to calls made under sub-paragraph (1) of paragraph 3 of this Schedule shall not exceed the number specified in the second column of Part I of the Table after the name of that fire brigade or London Fire Brigade station and opposite to the name of the fire brigade by which assistance is required.

(3) The number of pumps to be despatched from any fire brigade or London Fire Brigade station in answer to calls made under paragraph 4 of this Schedule shall not exceed the aggregate of the numbers specified in the third and fourth columns of Part I of the Table after the name of that fire brigade or London Fire Brigade station and opposite to the name of the fire brigade by which assistance is required. [659]

*Functions of chief officers as to obtaining assistance*

2. The Chief Officer of the London Fire Brigade, if at any time the resources at the disposal of that brigade are insufficient to deal effectively with any fire in the ordinary protection area of that brigade, shall inform the Regional Fire Officer. [660]

3.—(1) The chief officer of any fire brigade named in the first column of Part I of the Table, if at any time the resources of that brigade are insufficient to deal effectively with any fire in the ordinary protection area of that brigade, may call upon the chief officers of fire brigades named in the second column of Part I of the Table opposite to the name of the fire brigade by which assistance is required, and upon the officers in charge of London Fire Brigade stations so named as aforesaid, to despatch pumps, subject, however, to the provisions of sub-paragraphs (1) and (2) of paragraph 1 of this Schedule.

(2) The chief officer by whom a call is made under the last foregoing sub-paragraph shall inform the assistant regional fire officer for the district of the action which he has taken, and the assistant regional fire officer shall inform the Regional Fire officer.

(3) If the chief officer of a fire brigade named in the first column of Part I of the Table requires greater assistance than he is able to obtain under sub-paragraph (1) of this paragraph, he shall inform the assistant regional fire officer for the district.

(4) If the chief officer of any such fire brigade is unable, within a reasonable time, to establish communication with the assistant regional fire officer for the district, he shall inform the Regional Fire Officer.

(5) If the chief officer of any such fire brigade is satisfied that the resources which he can obtain under the foregoing provisions of this paragraph are insufficient to deal effectively with a fire in the ordinary protection area of the brigade, and communication with neither the assistant regional fire officer for the district nor the Regional Fire Officer can be established within a reasonable time, he may, subject to and in accordance with the provisions of paragraph 4 of this Schedule, exercise in lieu of the assistant regional fire officer for the district the powers conferred upon the assistant regional fire officer by that paragraph :

Provided that in exercising those powers the chief officer shall not be required to have regard to the provisos to sub-paragraph (1) of that paragraph. [661]

*Functions of assistant regional fire officers as to obtaining assistance*

4.—(1) An assistant regional fire officer, if he is satisfied that the resources at the disposal of any fire brigade in his district are insufficient to deal effectively with any fire in the ordinary protection area of that brigade, may call for the despatch of pumps from fire brigades and London Fire Brigade stations named in the third and fourth columns of Part I of the Table opposite to the name of the brigade by which assistance is required, subject, however, to the provisions of sub-paragraphs (1) and (3) of paragraph 1 of this Schedule :

Provided that—

- (a) the number of pumps which may be called for under this paragraph from a fire brigade or a London Fire Brigade station named in both the third and fourth columns of Part I of the Table shall not exceed the number specified in the said third column after the name of that brigade or station and opposite to the name of the brigade by which assistance is required, except for the purpose of making up deficiencies in the number of pumps available for despatch from brigades or stations named in the said third column ; and
  - (b) except for the purpose aforesaid, no pumps may be called for under this paragraph from a brigade or station named in the fourth, but not in the third, column of Part I of the Table opposite to the name of the brigade by which assistance is required.
- (2) In exercising the powers conferred by this paragraph, an assistant regional fire officer shall comply with the following provisions, that is to say—
- (a) in calling for assistance from any London Fire Brigade station, he shall call for it, if possible, through the superintendent of the London Fire Brigade district in which that station is situated ;
  - (b) in calling for assistance from a fire brigade in any district in the area other than a London Fire Brigade district, he shall call for it, if possible, through the assistant regional fire officer for that district ; and
  - (c) in calling for assistance from any fire brigade outside the area, he shall call for it through the district officer or alternative operating officer for the district from which he requires assistance ;
- (3) An assistant regional fire officer who exercises any of the powers conferred by this paragraph shall inform the Regional Fire Officer that he has done so. [662]

5.—(1) If an assistant regional fire officer is unable, under the provisions of paragraph 4 of this Schedule, to meet the requirements of any fire brigade in his district, he may call upon the chief officer of any other fire brigade in his district which is named in Part I of the Table to despatch pumps :

Provided that the number of pumps employed at the same time in pursuance of calls made by an assistant regional fire officer under the powers conferred by this paragraph shall not exceed ten.

(2) An assistant regional fire officer who exercises the power conferred by this paragraph shall inform the Regional Fire Officer that he has done so. [663]

*Functions of Regional Fire Officer as to obtaining and despatching assistance*

6. The Regional Fire Officer, if he is satisfied that the resources at the disposal of any fire brigade in the area are insufficient to deal effectively with any fire in the ordinary protection area of that brigade, may call for the despatch of pumps from any fire brigade in the area, and may call upon each of the Regional Commissioners named in Part II of the Table to despatch pumps not exceeding in all the number specified in the said Part II after the name of that Regional Commissioner. [664]

7. Where the Regional Fire Officer is called upon, in pursuance of the First Schedule to the Fire Brigades (General) Order, 1940, to despatch pumps to any place outside the area, he may call for the despatch, from one or more of the fire brigades in the area, of pumps for the purpose of complying with the call. [665]

8. In calling for the despatch of pumps under paragraph 6 or paragraph 7 of this Schedule—

- (a) from the London Fire Brigade, the Regional Fire Officer shall make the call, if possible, through the Chief Officer of that Brigade ;

- (b) from any other fire brigade in the area, he shall make the call if possible, through the assistant regional fire officer for the district. [666]

9. Where the Regional Fire Officer has power to call for the despatch of a pump, he may require the pump to be held in readiness for despatch at such place as he may direct. [667]

*Nature of assistance which may be called for*

10. Where, in accordance with the provisions of this Schedule, the Regional Fire Officer or an assistant regional fire officer has power to call for the despatch of a pump, he may call for the despatch of a pump of less capacity than a major pump, or may, instead of requiring the despatch of a pump, require any apparatus which would normally be despatched with a pump to be despatched in a tender or other vehicle, or require the despatch of the whole or any part of the crew of a pump with or without such apparatus. [668]

*Functions of officers as to despatching assistance*

11. Where a call for the despatch of assistance from any fire brigade or London Fire Brigade station is made in accordance with the provisions of this Schedule, it shall be the duty of the chief officer of the brigade, or, as the case may be, of the officer in charge of the station, to despatch forthwith the assistance called for in accordance with any directions given by the person by whom the call was made. [669]

12.—(1) Where the chief officer of a fire brigade in the area or the officer in charge of a London Fire Brigade station is required in accordance with the provisions of this Schedule to despatch a pump, he shall despatch a major pump unless some other pump has been called for.

(2) Every pump despatched in accordance with the provisions of this Schedule shall be despatched with a crew and the appropriate apparatus. [670]

*Despatch of special apparatus*

13. The Regional Fire Officer may call upon the chief officer of any fire brigade in the area, and an assistant regional fire officer (whether or not so directed by the Regional Fire Officer) may call upon the chief officer of any fire brigade in his district, to man and despatch a special appliance, or to despatch special apparatus or equipment, or to hold such an appliance, together with a crew, or such apparatus or equipment, in readiness for despatch in accordance with such directions as may be given by the Regional Fire Officer or by the assistant regional fire officer, as the case may be. [671]

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## FIRE BRIGADES (LONDON) (NO. 2) ORDER, 1940

*S. R. & O.*, 1940, No. 1279

*July 9, 1940*

I, in exercise of the powers conferred on me by Regulations 29 and 38 of the Defence (General) Regulations, 1939, hereby order as follows :—

1. This Order may be cited as the Fire Brigades (London) (No. 2) Order, 1940. [672]

2. For sub-paragraph (1) of paragraph 1 of the Schedule to the Fire Brigades (London) Order, 1940, there shall be substituted the following sub-paragraph :—

(1) Not more than one half of the major pumps (including emergency pumps) with which a fire brigade in the area is equipped shall be required to be despatched from that brigade under this Schedule. [673]

\* \* \* \* \*

## POLICE AND FIREMEN (EMPLOYMENT) ORDER, 1940

*S. R. & O., 1940, No. 1041*

*June 20, 1940*

In pursuance of the power conferred on me by Regulation 29B of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. Subject as hereinafter provided, any person who is on or after the date of this Order—

- (i) employed as a constable, or
- (ii) in the service of a local authority and employed as a member of a fire brigade or of the Auxiliary Fire Service,

is required to continue in such employment until his services are dispensed with in accordance with the provisions of Article 2 of this Order. [674]

2. The services of any person employed as aforesaid or of any class or description of persons so employed may be dispensed with by the Secretary of State and, in the case of a person employed as a constable (including a constable who acts or is employed as a fireman), by the chief officer of police or, in the case of any other person, by the chief officer of the fire brigade. [675]

3. This Order shall not apply to a person who is employed without remuneration or to a person who is not employed whole-time. [676]

4.—(1) This Order may be cited as the Police and Firemen (Employment) Order, 1940.

(2) This Order shall not extend to Scotland. [677]

\* \* \* \* \*

## THE AUXILIARY FIRE SERVICE (DISCIPLINE) RULES, 1940

*S. R. & O., 1940, No. 2117*

*December 13, 1940*

In pursuance of the powers conferred upon me by paragraph (2A) of Regulation 28 and by Regulation 38 of the Defence (General) Regulations, 1939, I hereby make the following Rules :—

1.—Members of the auxiliary fire service shall be subject to the code of offences against discipline set out in Part I of the Schedule to these Rules, and the rules of procedure set out in Part II of the said Schedule shall apply in the case of any member of the said service who is charged with any such offence and the offence shall be punishable as therein provided. [678]

2.—(1) These Rules shall come into force with respect to members of the auxiliary fire service in the service of a local authority on such day as the local authority may by resolution determine, and the local authority may determine different days for different classes of members of the said service.

(2) Upon such a resolution as aforesaid being passed, the local authority shall cause the effect of the resolution and of the Schedule to these Rules to be brought as soon as may be to the notice of the members of the auxiliary fire service affected thereby. [679]

3.—(1) These Rules may be cited as the Auxiliary Fire Service (Discipline) Rules, 1940.

(2) These Rules shall not extend to Scotland. [680]

\* \* \* \* \*

## SCHEDULE

### PART I

#### *Code of Offences against Discipline*

A member of the auxiliary fire service commits an offence against discipline if he is guilty of—

- (1) disobedience to orders, that is to say, if he disobeys, or without sufficient cause fails to carry out, any lawful order, whether in writing or not ;
- (2) insubordination, that is to say, if he is insubordinate to an officer of a fire brigade or of the auxiliary fire service ;
- (3) abuse of authority, that is to say, if he abuses his authority by oppressive conduct towards a member of the auxiliary fire service of lower rank ;
- (4) neglect of duty, that is to say, if he—
  - (a) without sufficient cause fails to attend to, or carry out, his duty promptly and diligently ;
  - (b) by carelessness or neglect suffers any loss, damage or injury to occur to any person or property ;
  - (c) without permission or sufficient cause leaves his station or place of duty ;
  - (d) fails to report any matter which it is his duty to report ; or
  - (e) fails to make an entry, which it is his duty to make, in any book or document ;
- (5) falsehood, that is to say, if he—
  - (a) knowingly makes any false or misleading statement, whether in writing or not, in the course of his duty ; or
  - (b) without sufficient cause, destroys or mutilates any official book or document or alter or erases any entry therein ;
- (6) breach of confidence, that is to say, if he divulges any matter which it is his duty to keep secret ;

- (7) corrupt practice, that is to say, if he—
  - (a) improperly uses his position as a member of the auxiliary fire service for his private advantage ; or
  - (b) fails to account for, or to make a prompt and true return of, any money or property which comes into his possession in the course of his duty ;
- (8) absence from duty, that is to say, if he, without reasonable excuse, is absent from duty or is late for any parade, drill or other attendance ;
- (9) damage to clothing or personal equipment, that is to say, if he—
  - (a) wilfully or negligently damages any article of clothing or personal equipment with which he has been provided or entrusted or if he fails to take proper care thereof ; or
  - (b) fails to report any damage to or loss of any article of clothing or personal equipment, however caused ;
- (10) drunkenness, that is to say, if, when on duty or when liable to be called upon for duty, he is unfit for duty through drink ; or
- (11) discreditable or disorderly conduct, that is to say, if he—
  - (a) acts in a disorderly manner or in any manner prejudicial to discipline ;
  - (b) while on duty, or while off duty in uniform in a public place, is without reasonable excuse dirty or untidy in his person, clothing or personal equipment ; or
  - (c) acts in a manner likely to bring discredit on the reputation of the fire brigade or the auxiliary fire service. [681]

## PART II

### *Rules of Procedure relating to offences against Discipline, and Punishments*

1. Where, on consideration of a complaint or otherwise, the chief officer of the fire brigade decides that a member of the auxiliary fire service should be charged with an offence against discipline, being an offence as defined in the code set out in Part I of this Schedule, the chief officer shall as soon as possible cause him to be informed in writing of the charge together with such particulars, including details as to time and place, as will leave him under no misapprehension regarding the allegations against him. [682]

2.—(1) The accused shall be ordered to state in writing whether he admits or denies the charge, and shall be allowed to give in writing any explanation which he may wish to offer.

(2) The accused shall be allowed to state the names and addresses of any witnesses to material facts whom he may desire to give evidence at the hearing of the charge.

(3) Any such witness who is a member of the fire brigade or a member of the auxiliary fire service attached to that brigade shall be ordered to attend at the hearing of the charge, and any other witness shall be given due notice that his attendance is desired and of the time and place of the hearing. [683]

3.—(1) If the accused denies the charge, he shall, unless the chief officer of the fire brigade is satisfied with the explanation which he has offered, be ordered to appear before the chief officer of the fire brigade at the hearing of the charge.

(2) The accused shall be entitled to hear the evidence given against him and to have an opportunity of cross-examining the witnesses and of calling witnesses in his defence. [684]

4. An offence against discipline may be punished with—

- (i) dismissal ;
- (ii) reduction in rank ;
- (iii) stoppage of pay ;
- (iv) additional duty ; or
- (v) reprimand ;

Provided that—

- (a) a stoppage of pay in respect of any one offence shall not continue after the expiration of three months from the date of the award of the punishment or of the decision of any appeal therefrom, as the case may be ; and the amounts of any stoppages (whether in respect of one or more offences) shall not exceed in the aggregate in any week one-seventh of the weekly pay of the offender ; and
- (b) additional duty in respect of any one offence shall not exceed forty-eight hours in and respect of one or more offences shall not exceed in any week twelve hours. [685]

5. The chief officer of the fire brigade shall, as soon as may be after the determination of a charge by him, cause his decision to be notified in writing to the accused and, except as otherwise provided in this Part of this Schedule, his decision shall be final. [686]

6. Where a member of the auxiliary fire service is, by a decision of the chief officer of the fire brigade for an offence against discipline, dismissed, reduced in rank or subjected to a stoppage of pay exceeding in respect of any one offence one-half of his weekly pay and feels aggrieved thereby, he shall, on giving notice in writing to the chief officer of the fire brigade within three clear days of the decision having been notified to him, be entitled to appear before a committee of the local authority, in whose service he is, consisting of not more than five persons appointed for the purpose by the local authority from amongst its members to appeal against the decision. [687]

7.—(1) The chief officer of the fire brigade may delegate all or any of his functions under the foregoing provisions of this Part of this Schedule, either generally or in a particular case, to another officer of the fire brigade or to the commandant, the deputy commandant or another officer, not being an officer below the rank of divisional officer, of the auxiliary fire service :

Provided that the powers of punishment of an officer to whom functions are delegated under this paragraph shall be subject to the following restrictions :—

- (i) he shall not impose any punishment other than—
  - (a) stoppage of pay,
  - (b) additional duty, or
  - (c) reprimand ;
- (ii) the amount of any stoppage of pay imposed by him on an offender on the same occasion in respect of one or more offences shall not exceed twenty shillings ; and the amount of additional duty imposed by him on an offender on the same occasion in respect of one or more offences shall not exceed twenty-four hours ; and
- (iii) any punishment imposed by him shall not be carried out until it has been confirmed, with or without modifications, by the chief officer of the fire brigade, and for the purpose of proviso (a) to paragraph 4 of this Part of this Schedule the date of the confirmation shall be deemed to be the date of the award of the punishment.

(2) Any member of the auxiliary fire service, who feels aggrieved by a decision of an officer to whom functions have been delegated under this paragraph awarding punishment, shall, on giving notice in writing to the chief officer of the fire brigade within three clear days of the decision having

been notified to him, be entitled to appear before the chief officer of the fire brigade to make representations against the confirmation of the punishment. [688]

8. A member of the auxiliary fire service shall be allowed to have a member of the fire brigade to which he is attached or a member of the auxiliary fire service attached to that fire brigade, selected by himself, to assist him in presenting his case at the hearing of a charge against him or of an appeal by him under paragraph 6 of this Part of this Schedule or in making representations under the last foregoing paragraph against the confirmation of a punishment. [689]

9. If a member of the auxiliary fire service refuses or without sufficient cause fails to attend at the time and place appointed for the hearing of any charge or appeal or for making representations against the confirmation of a punishment, or if at that time he is serving a term of penal servitude, imprisonment or detention, the matter may be decided in his absence. [690]

10.—(1) The chief officer of the fire brigade may suspend from duty a member of the auxiliary fire service against whom a complaint or report suggesting the commission of an offence against discipline has been made, and the suspension from duty may continue until the conclusion of the disciplinary proceedings.

(2) A member of the auxiliary fire service who has been suspended from duty shall not be entitled in respect of the period of suspension to any pay, but shall be paid a suspension allowance at such rate, being a rate of not less than one-half nor more than two-thirds of his pay as the chief officer of the fire brigade may determine.

(3) Where a member of the auxiliary fire service who has been suspended from duty is reinstated without having been found guilty of any offence against discipline, he shall receive, in respect of the period of suspension, the pay which he would, but for the suspension, have received less the amount of any sums paid to him by way of suspension allowance. [691]

11. Nothing in these Rules shall prejudice or affect any right of a local authority to dismiss, or terminate the contract of service of, any member of the auxiliary fire service. [692]

12. In this Part of this Schedule—

- (i) the expression “chief officer of the fire brigade” means, in relation to a member of the auxiliary fire service who is attached to a fire brigade, the chief officer of that brigade or, where that brigade is a police brigade, the chief constable and, in relation to any other member of the auxiliary fire service, the person designated by the local authority, in whose service the member is, to discharge the functions of the chief officer of the fire brigade under this Part of this Schedule ;
- (ii) references to the chief officer of the fire brigade shall, in the event of a vacancy in the office or the absence or incapacity of the chief officer of the fire brigade, be construed, in relation to a member of the auxiliary fire service who is attached to that brigade, as references to the person who for the time being is acting as chief officer of the brigade. [693]

## CLEARANCE OF LOFTS ORDER, 1940

*S. R. & O.*, 1940, No. 1313*July 20, 1940*

In pursuance of the powers conferred upon me by paragraph (2) of Regulation 27 and by Regulation 38 of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. Where there is in a dwelling-house any loft which is not used or furnished for use for human habitation, the loft shall be cleared and kept clear of all articles which are not affixed to the premises :

Provided that this Article shall not apply to a loft to which access is provided by a staircase. [694]

2. The following councils may authorise any of their officers or servants to exercise the powers conferred by paragraph (5) of the said Regulation 27—

- (a) in the county of London, the London County Council ;
- (b) elsewhere in England and Wales, the council of a borough or urban district ;
- (c) in Scotland, any county or town council. [695]

3. In this Order—

the expression “ dwelling-house ” means a building constructed or adapted to be used wholly or mainly for human habitation and includes a hospital ; and

the expression “ loft ” includes an attic and any space between a ceiling and a roof. [696]

4. This Order shall apply to the county of London, to all boroughs and urban districts in England and Wales and to Scotland. [697]

5. This Order may be cited as the Clearance of Lofts Order, 1940. [698]

\* \* \* \* \*

## FIRE WATCHERS ORDER, 1940

*S. R. & O.*, 1940, No. 1677*September 19, 1940*

In pursuance of the powers conferred upon me by Regulations 27A and 38 of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. The occupier of any premises or any part of any premises in which this Order applies shall secure that a person who has undertaken to act as fire watcher is at all times present on those premises or that part, as the case may be, and is given all proper facilities for discharging the obligations imposed on him by Article 2 of this Order :

Provided that, if any two or more occupiers of different parts of the same premises so arrange, they may treat all the parts of the premises

occupied by them, for the purposes of this Article, as if they were jointly occupied by all of them. [699]

2.—(1) The person who has undertaken to act as fire watcher shall—

- (i) be present on the premises or the part of the premises at all times during the period for which he has undertaken to act as fire watcher ; and
- (ii) during a period during which a hostile attack is in progress in the vicinity or an air-raid warning is in operation, be in readiness to detect outbreaks of fire and to summon assistance and to use such fire fighting appliances as may be available.

(2) For the purpose of this Article an air-raid warning shall be deemed to be in operation from the giving of the air-raid warning signal to the giving of the raiders passed signal. [700]

3. A Regional Commissioner may in writing exempt from the provisions of Article 1 of this Order any premises or class or description of premises, or any part thereof. [701]

4. The following local authorities are authorized to exercise the powers conferred by paragraph (3) of the said Regulation 27A—

(a) in England—

the common council of the city of London,  
the council of a metropolitan borough,  
the council of a county borough, and  
the council of a county district ;

(b) in Scotland—

the county council, and  
the town council. [702]

5.—(1) This Order applies to premises in which more than thirty persons work and to the following premises, whether or not more than thirty persons work therein, namely—

- (a) any building, the whole or any part of which is used as a warehouse of a greater capacity than fifty thousand cubic feet, except when the warehouse is empty ; and
- (b) any saw-mill or timber yard containing more than fifty thousand cubic feet of timber :

Provided that this Order shall not apply to premises which form part of any mine or quarry.

(2) For the purposes of this Article the number of persons who work in premises shall be taken to be the greatest number of persons who are present in the premises at any one time in a normal day, being persons who carry on business in the premises or are employed by persons carrying on business therein :

Provided that—

- (i) regard shall not be had to any temporary increase occasioned by a change of shifts ;
- (ii) in the case of any premises where there are outdoor workers, regard shall not be had to more than twenty-five per cent. of their total number.

In this proviso the expression "outdoor workers" means persons who on a normal day work in the premises for not more than one hour. [703]

6. In this Order—

"air-raid warning signal" means any public signal indicating that an air-raid by the enemy is expected or is in progress; and

"raiders passed signal" means any public signal indicating that such an air-raid is no longer expected or has ceased. [704]

7.—(1) This Order may be cited as the Fire Watchers Order, 1940.

(2) This Order shall extend to the whole of Great Britain. [705]

\* \* \* \* \*

## FIRE PRECAUTIONS (ACCESS TO PREMISES) ORDER, 1940

*S. R. & O., 1940, No. 1873*

*October 19, 1940*

In pursuance of the powers conferred on me by paragraph (1) of Regulation 28 and Regulation 38 of the Defence (General) Regulations, 1939, I hereby order as follows :—

1.—(1) The powers of entry and of taking steps for extinguishing fire or for protecting property, or rescuing persons or property, from fire conferred on auxiliary firemen by paragraph (1) of the said Regulation 28 are hereby conferred on persons of the following classes, that is to say :—

air-raid wardens ;

members of a voluntary fire-fighting party which is recognised by a local authority mentioned in paragraph (2) of this Article :

Provided that nothing in this Order shall authorise any person to exercise any of the said powers except when he is acting as an air-raid warden or a member of a voluntary fire-fighting party, as the case may be.

(2) For the purpose of the foregoing paragraph the following authorities shall be local authorities, that is to say :—

(a) in England—

the common council of the city of London,  
the council of a metropolitan borough,  
the council of a county borough, and  
the council of a county district ;

(b) in Scotland—

the county council, and  
the town council. [706]

2. This Order may be cited as the Fire Precautions (Access to Premises) Order, 1940. [707]

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## FOOD AND DRUGS

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Public Health (Preservatives, etc., in Food) Amendment Regulations, 1940	237		

## ORDERS, CIRCULARS AND MEMORANDA

## PUBLIC HEALTH (PRESERVATIVES, ETC., IN FOOD) AMENDMENT REGULATIONS, 1940

S. R. &amp; O., 1940, No. 633

April 30, 1940

102590.

The Minister of Health in exercise of the powers conferred upon him by the Food and Drugs Act, 1938, and of every other power enabling him in that behalf hereby makes the following regulations :—

1.—(1) These regulations may be cited as the Public Health (Preservatives, etc., in Food) Amendment Regulations, 1940, and these regulations and the Public Health (Preservatives, etc., in Food) Regulations, 1925 to 1927, shall be construed together and may be cited together as the Public Health (Preservatives, etc., in Food) Regulations, 1925 to 1940.

(2) These regulations shall come into operation on the date hereof.  
[708]

2. The Public Health (Preservatives, etc., in Food) Regulations, 1925, as amended shall be further amended as follows :

(1) The following additional proviso shall be inserted at the end of Article 4 (1) and at the end of Article 11 (1) :—

“(iv) The provisions of this Article shall not apply

(a) so as to prohibit the presence in bacon, ham and cooked pickled meat of any added sodium or potassium nitrite.

(b) so as to prohibit the presence in any article of food of sodium or potassium nitrite introduced in the preparation of such article by the use of any bacon, ham or cooked pickled meat containing sodium or potassium nitrite.”

(2) The following paragraph shall be inserted after Article 4 (3) :—

“(4) No person shall manufacture for sale or sell any cooked pickled meat intended for human consumption, other than bacon and ham, which contains sodium or potassium nitrite in proportions exceeding two hundred parts per million calculated as sodium nitrite.”

(3) The following paragraph shall be inserted after Article 11 (2) :—

“(3) No person shall import into England or Wales any cooked pickled meat intended for sale for human consumption, other than

bacon and ham, which contains sodium or potassium nitrite in proportions exceeding two hundred parts per million calculated as sodium nitrite." [709]

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## PUBLIC HEALTH (IMPORTED FOOD) REGULATIONS 1937

*Circular 2025*

*June 17, 1940*

SIR,

1. I am directed by the Minister of Health to state, for the information of the Authority, that he has caused to be published in the London Gazette of the 14th June, 1940, a Notice containing in the Schedule thereto the description of a label or stamp issued by the Government of Sind which has been recognised as an Official Certificate for the purposes of the Public Health (Imported Food) Regulations, 1937.

A copy of the Notice is appended to this Circular. [710]

2. A copy of this Circular is being sent to the Medical Officer of Health and further copies may be obtained from His Majesty's Stationery Office, at the addresses shown below. [711]

I am, etc.

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### APPENDIX

*Notice inserted in the London Gazette of the 14th June, 1940*

### MINISTRY OF HEALTH

#### PUBLIC HEALTH (IMPORTED FOOD) REGULATIONS, 1937

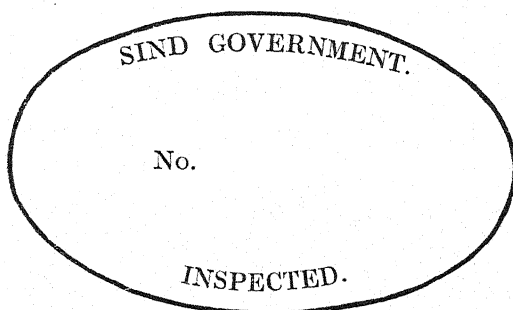
The Minister of Health gives notice, in pursuance of the above-named Regulations, that he hereby recognises the Official Certificate of which particulars are given in the Schedule hereto as showing (a) that the meat to which it relates or the meat from which the meat product to which it relates was prepared, was derived from animals inspected ante and post mortem and passed in accordance with criteria satisfactory to the Minister; and (b) that all necessary precautions for the prevention of danger to public health were taken in the dressing or preparing and packing of the meat or meat product.

Where the Certificate is in the form of a label, the recognition will apply only if the label is securely affixed to the meat or to the package containing the meat or meat product and if the label has not in any other circumstances or on any other occasion been used as an Official Certificate; and where the Certificate is in the form of a stamp, the recognition will apply only if the stamp is clearly impressed on the meat or the container, as the case may be.

## SCHEDULE

## PROVINCE OF SIND

A label or stamp having on it a design of the size and in the form set out below :—



The certificate will be completed by the insertion of the number of the Establishment. [712]

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## GAS

ORDERS, CIRCULARS AND MEMORANDA :—		PAGE			PAGE
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## ORDERS, CIRCULARS AND MEMORANDA

## GAS FUND (CONTRIBUTION) ORDER, 1940

*S. R. & O., 1940, No. 56*

*January 15, 1940*

In pursuance of the powers conferred upon them by Section 7 of the Gas Regulation Act, 1920, as amended by the Gas Undertakings Act, 1934, and of all other powers enabling them in that behalf the Board of Trade hereby prescribe as follows :—

1. The rate of contribution to the Gas Fund for the year 1940 shall be—

- (a) elevenpence for each five thousand therms in the form of gas sold during the year 1939 (excluding gas sold to other undertakers in bulk for distribution and gas supplied separately for industrial purposes only); and

- (b) five and one half pence for each five thousand therms in the form of gas supplied separately for industrial purposes only during the year 1939. [713]

2. Such contribution shall be paid on or before the 1st April, 1940, to the Board of Trade at Romney House East, Tufton Street, London, S.W.1, by all Gas Undertakers with respect to whom an Order under the Gas Regulation Act, 1920 shall have been made or to whom subsection (3) of Section 7 of that Act applies by virtue of any public general Act, Special Act or Special Order. [714]

3. Payment of the contribution shall be by cheque made payable to the "Board of Trade" and crossed "Bank of England". [715]

4. This Order may be cited as the Gas Fund (Contribution) Order, 1940. [716]

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## DEFENCE (GAS CHARGES) ORDER, 1940

*S. R. & O., 1940, No. 385*

*March 15, 1940*

Whereas it appears to the Board of Trade to be expedient for maintaining supplies and services essential to the life of the community that the Defence (Gas Charges) Order, 1939 (which relates to the making by undertakers of increased charges in respect of gas where the quantity of gas manufactured by them during certain periods has decreased) should apply where the net cost to undertakers of the coal and oil used by them in the manufacture of gas has increased :

Now therefore the Board of Trade in pursuance of Regulation 56 of the Defence (General) Regulations, 1939, hereby order as follows :—

1.—(1) Sub-paragraphs (1) and (3) of paragraph 1 of the Defence (Gas Charges) Order 1939 shall have effect as if for paragraph (b) therein there were substituted the following paragraph :—

“(b) (i) the quantity of gas manufactured in any quarter by the undertakers did not exceed ninety-five per centum of the quantity manufactured in the corresponding period in the year 1938, or

(ii) the net cost of coal and oil per therm to the undertakers in any quarter exceeded that shown by the accounts of the undertaking for the financial year of the undertaking ending on or next before the 15th day of May, 1939.”

(2) Sub-paragraph (4) of paragraph 1 of the said Order shall have effect as if for the words from the beginning to “the said corresponding period” there were substituted the following words :—

“The permitted price in respect of any quarter shall be the pre-war price with the following additions or either of them, that is to say—

(a) where the quantity of gas manufactured by the undertakers in the last preceding quarter was less than the quantity manufactured by them in the corresponding period in the

year 1938, the addition of  $\frac{1}{10}d.$  per therm in respect of each quantity equal to one per centum of the latter quantity by which the former quantity is less than the latter quantity, and

- (b) where the net cost of coal and oil per therm to the undertakers in the last preceding quarter exceeded that shown by the accounts of the undertaking for the financial year of the undertaking ending on or next before the 15th day of May 1939—the addition of the amount of that excess”.

(3) Sub-paragraph (1) of paragraph 4 of the said Order shall have effect as if for the word “and” where it secondly occurs there were substituted the words—

“ ‘local authority’ means—

(a) as respects England and Wales, the council of a county, county borough, or county district, and

(b) as respects Scotland, a county or town council,

and includes a board constituted from among the members of two or more such councils ;

‘net cost of coal and oil per therm’ means, in relation to any undertakers in any period, the cost to the undertakers of the coal used by them in the manufacture of gas and of the coke and oil converted by them into gas during that period less the value of saleable coke produced by them during that period (calculated, in respect of unsold stocks, at the average price per ton at which coke was sold by them during that period) divided by the number of therms in the form of gas sold by them during that period ; but so that references to a therm shall, in relation to undertakers who are not authorised to charge for gas according to the number of British Thermal Units supplied, have effect as if they were references to 1,000 cubic feet of gas”. [717]

2. This Order may be cited as the Defence (Gas Charges) Order, 1940. [718]

\* \* \* \* \*

## THE DEFENCE (GAS CHARGES) (NO. 2) ORDER, 1940

*S. R. & O., 1940, No. 2099*

*December 5, 1940*

The Board of Trade in pursuance of the powers conferred upon them by Regulation 56 of the Defence (General) Regulations, 1939, hereby order as follows :—

1. At the end of sub-paragraph (5) of Paragraph 1 of the Defence (Gas Charges) Order, 1939, there shall be inserted the following words :—

“So however that no account shall be taken of any such excess which is attributable solely to the payment of Purchase Tax upon that meter or fitting.” [719]

2. This Order may be cited as the Defence (Gas Charges) (No. 2) Order, 1940. [720]

\* \* \* \* \*

**GAS SUPPLY (WAR DAMAGE) ORDER, 1940***S. R. & O., 1940, No. 1647**September 10, 1940*

The Board of Trade in pursuance of the powers conferred upon them by Regulation 56 of the Defence (General) Regulations 1939 hereby order as follows :—

1.—(1) Where any public utility undertaking, being an undertaking for the supply of gas, has suffered war damage such that the undertakers are unable during any period to maintain a normal supply of gas, the undertakers shall not by virtue of any provision of any Act or other instrument determining their functions (other than a direction given in pursuance of the aforesaid Regulations) be under an obligation to give and continue to give during that period a supply of gas to any person or for any premises.

(2) In this Order “war damage” means damage caused by, or in repelling, enemy action, or by measures taken to avoid the spreading of the consequences of damage caused by, or in repelling, enemy action. [721]

2. This Order may be cited as the Gas Supply (War Damage) Order, 1940. [722]

\* \* \* \* \*

**GAS SUPPLY (WAR DAMAGE) (NO. 2) ORDER, 1940***S. R. & O., 1940, No. 1675**September 14, 1940*

The Board of Trade, in pursuance of the powers conferred upon them by Regulation 56 of the Defence (General) Regulations, 1939, hereby order as follows :—

1.—(1) Where any public utility undertaking, being an undertaking for the supply of gas, has suffered war damage such that the undertakers are unable during any period to maintain a supply of gas of the declared calorific value, the undertakers shall not, by virtue of any provision of any Act or other instrument determining their functions, be under any obligation to supply gas of that calorific value during that period, and accordingly they shall not be liable to make any payment or allow any credit in respect of any excess revenue if the average calorific value of the gas supplied during the quarter in which that period occurs is less than the declared calorific value by reason of the calorific value of the gas actually supplied during that period.

(2) In this Order “war damage” means damage caused by, or in repelling, enemy action, or by measures taken to avoid the spread of the consequences of damage caused by, or in repelling, enemy action.

(3) In this Order, the several words and expressions to which meanings are assigned by the Gas Undertakings Acts, 1920 to 1934, have the same respective meanings. [723]

2. This Order may be cited as the Gas Supply (War Damage) (No. 2) Order, 1940. [724]

\* \* \* \* \*

## CASES

*Gas Company Cutting Off Supply—Realisation of Security—Whether Leave of Court Necessary—South Metropolitan Gas, Light and Coke Company Act, 1942 (c. lxxix), ss. 159, 161—Courts (Emergency Powers) Act, 1939 (c. 67), s. 1 (2) (a) (iv).*

The occupier of business premises was supplied by defendants with gas through a slot meter. She also rented certain pans, stoves and other utensils from them, and was in arrears with her payments of rent in respect of these utensils to the amount of £62 15s. 5d. Defendants cut off the supply of gas to her, and it was contended that, as all the charges for the supply of gas had been paid and the only outstanding charges were those in respect of the hire of the utensils, defendants had exceeded their statutory power in cutting off the supply of gas. It was also contended that the cutting off of the supply was a realisation of a security within the meaning of the Courts (Emergency Powers) Act, 1939, s. 1 :—

*Held*: (i) defendants had acted within their statutory powers in cutting off the supply of gas ;

(ii) the cutting off of the supply of gas was not a realisation of a security within the meaning of the Courts (Emergency Powers) Act, 1939, s. 1.—*PERRY v. SOUTH METROPOLITAN GAS CO.*, [1940] 1 All E. R. 591. [725]

## GOVERNMENT CONTROL

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### ORDERS, CIRCULARS AND MEMORANDA

#### ORDER IN COUNCIL ADDING REGULATION 54B TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1940, No. 780

May 22, 1940

At the Court at Buckingham Palace, The 22nd day of May, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of section one of the Emergency Powers (Defence) Act, 1939, and of all other powers enabling Him in that

behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that after Regulation fifty-four A of the Defence (General) Regulations there shall be inserted the following Regulation :—

**54B. "Power to give directions to local authorities.**—(1) A competent authority and any person authorised by a competent authority to act under this Regulation may give directions to any local authority requiring the local authority to perform such functions as the competent authority thinks proper in the interests of the public safety, the defence of the realm, the maintenance of public order, or the efficient prosecution of the war, or for maintaining supplies or services essential to the life of the community, and any local authority to which such directions are given shall comply with the directions and shall have power so to do notwithstanding any obligation or limitation imposed on the local authority by or by virtue of any Act or other instrument relating to the powers of the local authority.

(2) For the purpose of carrying out any directions given to a local authority under this Regulation the local authority and any person authorised by that authority so to do may enter on any land and, subject to any instructions given by the competent authority, may exercise any of the powers conferred by Regulation fifty of these Regulations upon persons authorised by a competent authority to act under that Regulation, and that Regulation shall apply accordingly as if references therein to the competent authority included references to that local authority.

(3) A competent authority may, to such extent and subject to such restrictions as it thinks proper, delegate all or any of its functions under this Regulation to any specified persons or class of persons." [726]

\* \* \* \* \*

## WALES AND MONMOUTHSHIRE

*Circular 2005*

*April 26, 1940*

SIR,

I am directed by the Minister of Health to inform you that in addition to the functions already exercised through the Welsh Board of Health he has arranged, from the 1st May, 1940, to exercise through that Board functions in relation to the matters named below, so far as concerns Wales and Monmouthshire,

Housing and Town Planning.

Private Street Works.

Local Sanitary and other services (including water supply, sewerage and sewage disposal) as set out in Schedule overleaf, and the other miscellaneous matters therein enumerated.

Constitution and alteration of Local Government and other areas.

Local Authorities should, from the 1st May, address to the Welsh Board of Health, Cathays Park, Cardiff, all correspondence with regard to proposals for capital expenditure, dealings in land and other matters relating to the above subjects, except correspondence connected with the making and confirmation of byelaws, which should continue to be addressed to the Ministry of Health, Whitehall. [727]

I am, Sir, etc.

\* \* \* \* \*

#### SCHEDULE

Sewerage and Sewage Disposal ; Surface and Storm Water Drainage ; Culverting Streams.

Water Supply.

Burial Grounds and Burials (other than registers and fees) ; Crematoria.

Ambulances.

Fire Stations and Appliances.

Inebriate Reformatories.

Lighting of Streets.

Markets.

Military Lands.

Police Buildings (except erection of police dwellings by County Councils).

Public Libraries.

Public Offices and Halls.

Baths and Washhouses.

Conveniences.

Public Cleansing, including Refuse Collection and Disposal and the Scavenging of Streets.

Public Walks and Pleasure Grounds, Open Spaces, Playing Fields, Gymnasiums, Camp Sites, etc.

Sea Defences and Promenades.

Transactions with respect to Corporate Lands.

River Pollution ; Drainage of Trade Premises.

Privy Conversions.

Nuisances and Offensive Trades.

Sanitary conditions in shops, offices and theatres.

Smoke Abatement.

Urban Powers.

"Special" Expenses.

Adoption of provisions in the Public Health Acts Amendment Act, 1890, and the Public Health Act, 1925.

Conferring Urban powers on Rural District Councils.

Investing Urban Authorities with powers of Parish Councils under Section 271, Local Government Act, 1933, and Urban or Rural Authorities with powers of Public Health Acts Amendment Act, 1907.

Approval of salaries of Clerks of County Councils under the Local Government Act, 1933.

Appointment and tenure of office of Public Vaccinators and Vaccination Officers ; approval of alteration of district and salaries. [728]

# HARBOURS, DOCKS AND WHARVES

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## ORDERS, CIRCULARS AND MEMORANDA

### BLYTH HARBOUR COMMISSIONERS (TEMPORARY PROVISIONS) ORDER, 1940

*S. R. & O., 1940, No. 243*

*February 22, 1940*

At the Court at Buckingham Palace the 22nd day of February, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas application has been made on behalf of the Blyth Harbour Commissioners praying that His Majesty may be graciously pleased to make an Order in Council with respect to those Commissioners under section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939 :

Now, therefore, His Majesty, in pursuance of the powers conferred on Him by the said section two, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The persons who were the elected Commissioners on the seventh day of February, nineteen hundred and forty, shall continue in office as if under the provisions of section twelve of the Blyth Harbour Act, 1912 (which relates to the triennial retirement and election of elected Commissioners) the next day for the retirement of elected Commissioners and the election of Commissioners to supply the vacancies were the second Thursday in the month of February, nineteen hundred and forty-three, and accordingly the election of Commissioners which would but for this Order fall to be held on the eighth day of February, nineteen hundred and forty, shall not be held and no lists of electors shall be prepared or revised therefor. [729]

2. Any vacancy among the Commissioners elected by coal owners or the Commissioners elected by shipowners occurring by death, resignation or disqualification after the said seventh day of February and before the second Thursday in the month of February, nineteen hundred and forty-three, shall, in lieu of being filled in the manner specified in section forty of the said Act, be filled by the co-option of a Commissioner by the remaining Commissioners elected by coal owners

or ship-owners, as the case may be ; and any Commissioner so co-opted shall be deemed for all purposes to be a Commissioner elected as aforesaid. [730]

3.—(1) This Order may be cited as the Blyth Harbour Commissioners (Temporary Provisions) Order, 1940.

(2) This Order shall have effect as from the first day of September, nineteen hundred and thirty-nine.

(3) In this Order the expression "the elected Commissioners" means such of the Blyth Harbour Commissioners as are elected by coal owners, shipowners and traders.

(4) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament. [731]

\* \* \* \* \*

## DARTMOUTH HARBOUR COMMISSIONERS (TEMPORARY PROVISIONS) ORDER, 1940

*S. R. & O., 1940, No. 317*

*March 7, 1940*

At the Court at Buckingham Palace, the 7th day of March, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas application has been made on behalf of the Dartmouth Harbour Commissioners praying that His Majesty may be graciously pleased to make an Order in Council under section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939, with respect to the embankment member and the harbour members of those Commissioners :

Now, therefore, His Majesty, in pursuance of the powers conferred on Him by the said section two and of all other powers enabling Him in that behalf is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The following provisions shall have effect as respects the embankment member and the harbour members of the Dartmouth Harbour Commissioners as reconstituted by the Dartmouth Harbour Act, 1922—

- (a) the triennial election of the said members required to be held in the year nineteen hundred and forty by section eight of the said Act shall not be held ;
- (b) the members due to retire under the said section eight at the end of the month of May in the year nineteen hundred and forty shall continue in office as if they had been duly re-elected under that section ;
- (c) the registers of electors required to be prepared and kept under sections twelve and thirteen of the said Act shall cease to be prepared and kept until the first day of January, nineteen hundred and forty-three ;

- (d) sections fifteen, sixteen and seventeen of the said Act shall not have effect in so far as they require anything to be done for the purpose of or in connection with the triennial election of the said members in the year nineteen hundred and forty ;
- (e) any vacancy among the said members which occurs before the triennial election in the year nineteen hundred and forty-three and, but for this Order, would be required to be filled in manner provided by paragraph (3) of section twenty-three of the said Act shall, instead of being so filled, be filled—
  - (i) in the case of a vacancy in the office of the embankment member, by the co-option by the harbour members of a person qualified to be an embankment member ; and
  - (ii) in the case of a vacancy in the office of a harbour member, by the co-option by the other harbour member and the embankment member of a person qualified to be a harbour member ;
- (f) any vacancy among the said members which occurs after the making of this Order and before the first day of June, nineteen hundred and forty, or which has occurred but has not been filled before the making of this Order, shall, notwithstanding that it is not required to be filled by paragraph (3) of the said section twenty-three, be filled by co-option in accordance with the last preceding paragraph of this Article. [732]

2.—(1) This Order may be cited as the Dartmouth Harbour Commissioners (Temporary Provisions) Order, 1940.

(2) This Order shall have effect as from the first day of January, nineteen hundred and forty.

(3) The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [733]

\* \* \* \* \*

## LLANELLY HARBOUR TRUST (TEMPORARY PROVISIONS) ORDER, 1940

*S. R. & O., 1940, No. 485*

*April 5, 1940*

At the Court at Buckingham Palace, the 5th day of April, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas application has been made on behalf of the Llanelly Harbour Trust praying that His Majesty may be graciously pleased to make an Order under section two of the Chartered and other Bodies (Temporary Provisions) Act, 1939, with respect to the elective trustees of that Trust :

Now, therefore, His Majesty in pursuance of the powers conferred on Him by the said section two and of all other powers enabling Him in that behalf is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The triennial election of the elective trustees of the Llanelly Harbour Trust required to be held in the year nineteen hundred and forty by section seven of the Llanelly Harbour Act, 1904, shall not be held; and the trustees due to retire under the said section seven in the month of September in that year shall continue in office as if they had been duly re-elected under that section. [734]

2.—(1) This Order may be cited as the Llanelly Harbour Trust (Temporary Provisions) Order, 1940.

(2) The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [735]

\* \* \* \* \*

## THE RAILWAY-OWNED HARBOURS, DOCKS AND PIERS (INCREASE OF CHARGES) ORDER, 1940

*S. R. & O., 1940, No. 1808*

*October 9, 1940*

In exercise of the powers conferred upon him by Regulation fifty-six of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, the Minister of Transport hereby orders as follows :—

1. In this Order the expression “ Railway Companies ” means the Southern Railway Company, the Great Western Railway Company, the London Midland and Scottish Railway Company, the London and North Eastern Railway Company and any Joint Committee of any two or more of the before-mentioned railway companies. [736]

2. Notwithstanding any obligation or limitation imposed upon the railway companies by or by virtue of any Act or other instrument determining their functions the railway companies may charge in respect of the undertakings named in Part I of the Schedule hereto the rates dues and other charges specified in Part II thereof.

Provided that this Order shall not apply to (i) Labourage charges which have been varied since the 3rd September, 1939, or which may be varied during the currency of this Order in consequence of alterations in rates of wages; and (ii) any charges in respect of through traffic which have been increased or may be increased hereafter under the provisions of the Railways (Additional Charges) Order, 1940, or any Order modifying such Order. [737]

3. This Order may be cited as “ The Railway-Owned Harbours, Docks and Piers (Increase of Charges) Order, 1940 ”. [738]

## THE SCHEDULE

## PART I

*Undertakings*

Aberdovey Harbour.	Highbridge Dock.
Barry Docks.	Dunball.
Brentford.	Fishguard Harbour.
Bridgwater Dock.	Llanelly Docks.
Briton Ferry Dock.	Newport Docks.
Burry Port.	Penarth Harbour and Dock.
Bute Docks, Cardiff.	Plymouth Docks.
Alloa Harbour and Dock.	Port Talbot Docks.
North Blyth Staiths.	Swansea Docks.
South Blyth Staiths.	Harwich Quays and Piers.
Bo'ness Harbour and Dock.	Hull Docks.
Burntisland Harbour and Docks.	Immingham Dock.
Charlestown Harbour.	Lowestoft Harbour.
Connah's Quay Dock.	Mallaig Piers.
Craigendoran Pier.	Methil Harbour and Docks.
Dunston Staiths.	Middlesbrough Dock.
West Dunston Staiths.	Parkeston Quay.
Grimsby Docks.	Percy Main (Northumberland Dock)
The Docks at Hartlepool and West Hartlepool.	Staiths.
Ayr Harbour.	Pettycur Harbour.
Barrow Harbour and Docks.	Silloth Dock.
Bowling Harbour.	Winteringham Haven.
Deganwy Wharf.	Kincardine Pier and Harbour.
Fairlie Pier.	Heysham and Morecambe Harbours.
Fleetwood Harbour.	Holyhead Harbour.
Wyre Docks.	Kentallen Pier.
Foryd Wharf.	Kyle of Lochalsh Pier.
Garston Docks.	Largs Harbour.
Gourock Pier.	Oban Pier.
Grangemouth Harbour and Docks.	Poplar Docks.
Gravesend Floating Stages.	Renfrew Wharf.
Cowes (Medina Wharf).	Stranraer East Pier.
Folkestone Harbour.	Tilbury Floating Stage.
Gravesend Pier and Basin.	Troon Harbour.
Langston Wharf.	Wemyss Bay Pier.
Newhaven Harbour.	Ryde Pier.
Port Victoria.	St. Helens Wharf.
Queenborough Pier.	Southampton Docks.
Chelsea Basin.	Stonehouse Pool.
Lydney Harbour and Dock.	Strood Dock.
	Whitstable Harbour.

## PART II

*Authorised Charges*

- |                                                                                                                                                                                                                     |                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| (1) The rates, dues and other charges on Coasting liners, when carrying mixed cargoes of merchandise and operating on regular scheduled services, and on the cargoes of such liners, in force on 31st August, 1939. | With an addition thereto of an amount not exceeding $7\frac{1}{2}$ per cent. |
| (2) All other rates, dues and charges in force on 31st August, 1939.                                                                                                                                                | With an addition thereto of an amount not exceeding 20 per cent.             |

Provided that if any increased rate, due or other charge made in pursuance of this Order includes a fraction of a farthing, the fraction if less than half a farthing shall be dropped, or if the fraction amounts to half a farthing but is less than a farthing it shall be charged as a farthing. [739]

\* \* \* \* \*

## CASES

*Occupier—Public Dry-dock—Vessel under Repair—Firm of Ship-repairers Renting Dock for Purposes of Repairing Ship—Factories Act, 1937 (c. 67), ss. 25 (1), 26 (1), 130 (1), 133, 151 (1) (i)—Shipbuilding Regulations, 1931 (S. R. & O., 1931, No. 133), reg. 1—Tort—Contribution between Joint Tortfeasors—Occupiers of Public Dry-dock—Breaches of Statutory Duty—Law Reform (Married Women and Tortfeasors) Act, 1935 (c. 30), s. 6 (2).*

The first defendants were the owners of a public dry-dock and the second defendants were a firm of ship-repairers who were repairing a vessel lying in the dock. Plaintiff, an employee of the second defendants, was walking down some steps into the dock, in order to reach the bottom of the ship, when one of the steps gave way under his weight. He fell to the bottom of the dock and sustained serious injuries. It was found that there had been a breach of the Factories Act, 1937, s. 25 (1), in that the steps had not been properly maintained at the time of the accident, and a breach both of s. 26 (1) of that Act and of the Shipbuilding Regulations, 1931, reg. 1, in that a safe means of access had not been provided. The question arose as to who was the occupier of the dock, and, as such, liable for the defective condition of the steps. The second defendants had applied for the use of, and used, the dock on the terms and conditions contained in their application. The second defendants contended in third-party proceedings that a term must be implied in the contract for the use of the dock that it would be in a safe condition and that the first defendants, the third party, would indemnify them against any damages and costs for which they might be liable by reason of any defect in the condition of the dock :—

*Held* : (i) the first defendants were the occupiers of the dock for the purposes of the Factories Act, 1937. Although they had permitted the second defendants to use the dock for the purposes of repair, they had themselves throughout retained possession of, and control over, the dock. They were, therefore, liable for the breaches of the Factories Act, 1937, ss. 25 (1), 26 (1) ;

(ii) the second defendants were notional occupiers under the Shipbuilding Regulations, 1931, for the limited purpose of repairing the ship. They were, therefore, liable for a breach of reg. 1 of those regulations, and for the proportion hereinafter stated of the damages awarded to the plaintiff ;

(iii) no such term as that contended for by the second defendants could be implied in the contract for letting the dock, and the claim for a complete indemnity failed. In the circumstances of the case, there would, however, be an order for contribution under the Law Reform (Married Women and Tortfeasors) Act, 1935, the first defendants to be liable for three-quarters, and the second defendants for one-quarter of the amount of the judgment.—*RIPPON v. PORT OF LONDON AUTHORITY*

AND J. RUSSELL & Co., [1940] 1 K. B. 858; [1940] 1 All E. R. 637; 109 L. J. K. B. 369; 162 L. T. 325; 104 J. P. 186; 56 T. L. R. 415; 84 Sol. Jo. 273; 38 L. G. R. 188. [740]

## HIGHER EDUCATION

*See EDUCATION.*

## HIGHWAYS

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## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL . . . AMENDING REGULATION . . . 70 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1940, No. 1292

*July 17, 1940*

\* \* \* \* \*

7. In paragraph (2) of Regulation Seventy of the principal Regulations for the words "the Secretary of State" there shall be substituted the words "the Ministry of Home Affairs." [741]

\* \* \* \* \*

**ORDER IN COUNCIL . . . AMENDING REGULATION  
... 71 OF THE DEFENCE (GENERAL) REGULA-  
TIONS, 1939**

*S. R. & O., 1940, No. 169*

*February 6, 1940*

\* \* \* \* \*

**3.** For paragraph (1) of Regulation seventy-one of the principal Regulations there shall be substituted the following paragraph :—

“(1) If at any time the Minister of Transport is satisfied that it is expedient in the interests of the public safety, the defence of the realm, or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community, that any highway should be repaired, he may give to any authority or person whose duty it is to maintain that highway such directions as to the repair thereof as he thinks expedient in those interests.

In this Regulation the expression ‘ highway ’ includes any bridge under or over a highway and any tunnel through or over which a highway lies.” [742]

\* \* \* \* \*

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**NORTHAMPTONSHIRE (COUNTY ROADS CESSER)  
ORDER, 1940**

*S. R. & O., 1940, No. 675*

*May 2, 1940*

Whereas the Northamptonshire County Council being, within the meaning of the Highways and Locomotives (Amendment) Act, 1878 (hereinafter referred to as “the Act”) the County Authority of the Administrative County of Northampton, have made application to the Minister of Transport (hereinafter referred to as “the Minister”) for the issue of an Order declaring that the length of road described in the Schedule hereto (hereinafter referred to as “the Road”), which is a County Road within the meaning of the Act, as amended by the Local Government Act, 1929, shall cease to be a County Road and shall become an ordinary highway ;

And whereas the Minister, being of opinion that there was probable cause for the said application, caused the Road to be inspected by one of his Inspectors and, report having been made thereon, the Minister is satisfied that the Road should cease to be a County Road and should become an ordinary highway ;

Now, therefore, the Minister, in pursuance of the powers given to him in that behalf, hereby orders and declares as follows :—

**1.** The Road shall cease to be a County Road and shall, subject to the provisions of the Act, as amended as aforesaid, become an ordinary highway. [743]

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [744]

3. This Order may be cited as "The Northamptonshire (County Roads Cesser) Order, 1940," and shall come into operation on the date hereof. [745]

\* \* \* \* \*

### SCHEDULE

#### *Urban District of Raunds*

The section of road known as Butts Road, 0·28 miles or thereabouts in length between Park Road and Midland Road. [746]

## REMOVAL OF DIRECTION SIGNS ORDER, 1940

*S. R. & O., 1940, No. 1007*

*June 18, 1940*

In exercise of the powers conferred on me by Regulation 4B of the Defence (General) Regulations, 1939, I hereby order as follows:—

1.—(1) No person shall display or cause or permit to be displayed any sign which furnishes any indication of the name of, or the situation of, or the direction of, or the distance to, any place.

(2) For the purpose of this Article the expression "sign" includes any direction post, place name and map. [747]

2. It shall be the duty of the owner of any such sign and the occupier of any land or premises on or to which any such sign is placed or attached forthwith to remove the sign or to obliterate therefrom or conceal any such indication as is mentioned in Article 1 of this Order. [748]

3. The Chief Officer of Police may on application grant exemption from the provisions of this Order in respect of any sign to such extent and subject to such conditions as he may think fit and any exemption so granted may at any time be revoked by notice given to the owner of the sign or to the occupier of any land or premises on or to which the sign is placed or attached. [749]

4. In the event of any contravention of this Order the Chief Officer of Police or any person authorized by him may remove, obliterate or conceal any sign in respect of which the Order has been contravened and for that purpose may enter upon any land or premises, without prejudice to any proceedings which may be taken against any person in respect of the contravention. [750]

5. A sign shall not be deemed to be displayed for the purposes of this Order unless it is so displayed that it can be seen and understood from a highway. [751]

6. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the Interpretation of an Act of Parliament. [752]

7. This Order may be cited as the Removal of Direction Signs Order, 1940. [753]

\* \* \* \* \*

### TRUNK ROADS

The following Orders have been made :—

Order	No.	Date
London—Great Yarmouth Trunk Road (Stanway By-Pass) ... ..	153	Jan. 27, 1940.
Edinburgh—Carlisle Trunk Road (Commonburn Plantation and Big Wood Diversion)	289	Feb. 16, 1940.
Edinburgh—Carlisle Trunk Road (Falahill Cottages and Heriot Station Diversions)... ..	310	Feb. 26, 1940.
London—Edinburgh—Thurso Trunk Road (Chapelhill and Cockburnspath Station Diversions) ... ..	320	Feb. 22, 1940.
London—Edinburgh—Thurso Trunk Road (Berriedale Diversion) ... ..	421	Mar. 11, 1940.
London—Edinburgh—Thurso Trunk Road (Grantshouse and other Diversions) ... ..	471	Mar. 18, 1940.
London—Edinburgh—Thurso Trunk Road (Loaninghead and Gleneagles Station Diversions) ... ..	570	Mar. 28, 1940.
London—Edinburgh—Thurso Trunk Road (Stilton By-pass) ... ..	597	April 5, 1940.
London—Edinburgh—Thurso Trunk Road (Alness Church Diversion) ... ..	618	April 19, 1940.
London—Edinburgh—Thurso Trunk Road (Evanton Station Diversion) ... ..	650	May 3, 1940.
London—Edinburgh—Thurso Trunk Road (Lovat Bridge Diversion) ... ..	658	April 22, 1940.
Chester—Bangor Trunk Road (Conway By-pass) ... ..	816	May 17, 1940.
London—Edinburgh—Thurso Trunk Road (Loughhouse Plantation and Station Plantation Diversions) ... ..	997	June 11, 1940.
London—Edinburgh—Thurso Trunk Road (Morpeth By-pass) ... ..	998	June 11, 1940.
London — Carlisle — Glasgow — Inverness Trunk Road (Luton By-pass) ... ..	1903	Dec. 30, 1940.

[754]

## CASES

*Statutory Powers—Erection of Barrier Along Pavement in Front of Plaintiff's Building—Nuisance—Invasion of Private Rights of Property—Newcastle-upon-Tyne Improvement Act, 1865 (c. ccl), ss. 22, 65.*

Defendant corporation had erected a barrier, consisting of posts and rails, along the edge of the pavement in front of a block of shops and offices owned by plaintiffs, with the object of providing that persons walking on the pavement should, when wishing to cross the street, use the pedestrian crossing at either end of the barrier. The barrier constituted a nuisance and a serious invasion of plaintiffs' right of access to the carriageway of the street. The corporation had been empowered by s. 22 of their private Act to place posts, pillars, rails, etc., in the streets for, *inter alia*, the protection of passengers and traffic, but s. 65, which was one of a number of sections under a general heading "Sewers. Sanitary Arrangements," contained a proviso that "nothing in this Act shall authorise the corporation . . . to do . . . any act . . . amounting to a nuisance." It was contended that s. 65 prevented the corporation from exercising their powers under s. 22 so as to commit a private nuisance :—

*Held* : (i) s. 65 did not in any way qualify the power given to the corporation under s. 22 to place posts, rails, etc., in the street regardless of whether or not they thereby caused a public or private nuisance ;

(ii) the word "nuisance" in s. 65 was not restricted to a private nuisance ;

(iii) *per* Goddard, L.J. : the extent of the railing along the street was a question entirely in the discretion of the corporation, and one which could not be reviewed by the court.

Decision of Wrottesley, J. ([1940] 1 All E. R. 219), *revsd.*—DORMER v. NEWCASTLE-UPON-TYNE CORPORATION, [1940] 2 K. B. 204 ; [1940] 2 All E. R. 521 ; 109 L. J. K. B. 708 ; 163 L. T. 266 ; 104 J. P. 316 ; 56 T. L. R. 673 ; 84 Sol. Jo. 500 ; 38 L. G. R. 264, C. A. [755]

*Painting of White Line Along Centre of Road—Wet Paint Indicated by Cans and Red Flags Along Line—Not a Nuisance—Accident Caused by Motor-driver's Failure to See Cans—Highway Authority not Liable.*

The employees of a county council acting as agents for the Minister of Transport were engaged in painting a white line down the centre of a trunk road for which, by virtue of the Trunk Roads Act, 1936, the Minister was the highway authority. The men having left their work for the midday rest, the newly-painted line was marked by a series of cans filled with sand in which red flags were fixed. A motor-driver, having failed to see the cans, collided with the first as he approached, and then with another car coming towards him. In actions brought against him and against the county council and the Minister of Transport for negligence, it was contended that the council and the Minister were guilty of negligence in not giving clear indication of the presence of the cans and flags and of nuisance :—

*Held* : (1) the painting of the white line was, whether or not an "improvement" within the meaning of the Trunk Roads Act, 1936, within the powers of the Minister as highway authority, that it was no more than what was reasonably necessary to the process of painting the

line to indicate that such work was in progress by means of the cans and flags; and that the placing of the cans and flags did not constitute negligence or nuisance; (2) in any event, even if the placing of the cans and flags along the line constituted a nuisance, the only person liable to plaintiffs was defendant driver by reason of his negligence in failing to see the cans and flags in time to avoid the accident.—*Davies v. Mann* (10 M. & W. 546; 36 Digest 113, 751), applied.—*HUGHES v. SHEPPARD*; *MORLEY v. SHEPPARD* [1940], 163 L. T. 177; 104 J. P. 357; 56 T. L. R. 810; 84 Sol. Jo. 490; 38 L. G. R. 336. [756]

*Streets—Lowering Gas Main—Alteration to Existing Sewage System—Whether Chargeable to Frontagers or to Ratepayers—Public Health Act, 1875 (c. 55), s. 153—Private Street Works Act, 1892 (c. 57), s. 6.*

A local authority purported to pass a resolution under the Private Street Works Act, 1892, s. 6, to pass a sewer, level, metal, flag, channel and make good a street, and included in the provisional apportionment of expenses was an amount of £162 17s. 9d., being the cost of lowering a gas main already under the street, and an amount of £119, being the cost of providing new water gulleys, providing and placing concrete over an old sewer in the street, and making manholes in the sewer. It was sought to charge both these amounts to the frontagers. The old sewer had been laid in the road for the purpose of carrying off the effluent sewage as well as surplus water, and had been so used for many years without objection by the local authority:—

*Held*: (i) *prima facie*, the cost of lowering the gas main was a matter to which s. 153 of the Public Health Act, 1875, applied, and, as there was no finding of the justices and no reason in law to displace the application of that section, the cost must, in accordance with its provisions, be borne by the inhabitants at large;

(ii) the cost of the proposed drainage works must also be borne by the inhabitants at large, as the local authority was in fact only proposing to place on the frontagers the cost of improvements which they desired to effect in a sewer system which had, in years gone by, been accepted by them as a satisfactory system, and this was not a case for the exercise of their powers under the Private Street Works Act, 1892.—*Re JESTY'S AVENUE, BROADWAY, WEYMOUTH*, [1940] 2 K. B. 65; [1940] 2 All E. R. 632; 109 L. J. K. B. 689; 162 L. T. 360; 104 J. P. 279; 56 T. L. R. 660; 84 Sol. Jo. 466; 38 L. G. R. 275, D. C. [757]

*Emergency Legislation—Duty to Light Streets—Street Refuge—Lighting Restrictions in Street—How Far Affecting Obligation to Light Obstructions in Street—Metropolis Management Act, 1855 (c. 120), ss. 108, 130—Lighting (Restrictions) Order, 1939 (S. R. & O., 1939, No. 1098), paras. 1, 4 (d).*

The driver of a taxicab proceeding through the streets at night during the black-out collided with a bollard on a street refuge. A light had been properly placed on the refuge, but had gone out. It was proved that the local authority responsible for lighting these obstructions in the roadway had appointed officers to attend to these matters, and these officers were assisted by the air-raid wardens. It was contended that the local authority had failed in its statutory duty to light obstructions in the highway:—

*Held*: the duty of the local authority was to place a light upon the obstruction and to take all reasonable measures to ensure that that light

remained alight. It was not under an absolute duty which would render it liable in damages if the light was found to have gone out or to have been removed without negligence on the part of the authority.—*GREENWOOD v. CENTRAL SERVICE Co., LTD.*, [1940] 2 K. B. 447; [1940] 3 All E. R. 389; 109 L. J. K. B. 799; 104 J. P. 380; 56 T. L. R. 944; 84 Sol. Jo. 489; 38 L. G. R. 370, C. A. [758]

*Emergency Legislation—Duty to Light Streets—Street Refuge—Lighting Restrictions—How far affecting Obligation to Light Obstructions in Street—Metropolis Management Act, 1855 (c. 120), ss. 108, 130—Lighting (Restrictions) Order, 1939 (S. R. & O., 1939, No. 1098), paras. 1, 4 (d).*

Plaintiff, while travelling in a taxicab during the hours of black-out on September 1, 1939, was injured when the cab collided with an unilluminated bollard at the end of a refuge in a road within the district of defendant local authority. The refuge was erected by the local authority under the powers conferred upon them by the Metropolis Management Act, 1855, s. 108. Under s. 130 of the same Act, they are under an obligation to light the streets in their district. On September 1, 1939, the Lighting (Restrictions) Order, 1939, came into force, but it contained a provision that it should not apply to (*inter alia*) lamps indicating obstructions upon the carriageway of a road, provided that they did not exceed one candlepower and were properly screened. It was contended on behalf of the local authority that this order negated the duty under the Metropolis Management Act, 1855, s. 130, to light the streets :—

*Held*: as the Metropolis Management Act, 1855, s. 130, had, in effect, been temporarily repealed by the Lighting (Restrictions) Order, 1939, there was no statutory obligation on the part of a local authority to light an obstruction which it had placed in a street in pursuance of its statutory power under s. 108 of the Act. Since the obstruction was placed in the highway in pursuance of statutory authority there was no common law duty to light it.—*Decision of Cassels, J.* ([1940] 3 All E. R. 137) reversed.—*WODEHOUSE v. LEVY*, [1940] 2 K. B. 561; [1940] 4 All E. R. 14; 109 L. J. K. B. 867; 163 L. T. 227; 56 T. L. R. 1011; 104 J. P. 403, C. A. [759]

*Public Footpath—Diversion—Final Certificate of Justices that Substituted Highway Completed—Substituted Highway not then Completed—Application for Order of certiorari to Quash Certificate—Delay in Making Application—Refusal of Application—Discretion—Highways Act, 1835 (5 & 6 Will. 4, c. 50), s. 91.*

When on an application to divert a public highway under the Highways Act, 1835, the justices wrongly made their final certificate under the proviso to s. 91 that the substituted footpath had been completed and put in good condition and repair, an aggrieved party was not entitled to an order of *certiorari* to quash the certificate *ex debito justitiae*. The court had a discretion which it could and did exercise to refuse the application on the ground that there had been undue delay in bringing the proceedings.—*R. v. STAFFORD JJ., Ex parte STAFFORD CORPORATION*, [1940] 2 K. B. 33; 109 L. J. K. B. 584; 104 J. P. 266; 56 T. L. R. 623; 38 L. G. R. 255, C. A. [760]

*Emergency Legislation—Duty to Light Streets—Sand-bin on Pavement—Lighting Restrictions—How far affecting Obligation to Light obstructions*

*in Street—Metropolis Management Act, 1855 (c. 120), s. 130—London County Council (General Powers) Act, 1928 (c. lxxvii), s. 33—Lighting (Restrictions) Order, 1939 (S. R. & O., 1939, No. 1098), para. 1.*

Plaintiff while walking home during the black-out on September 15, 1939, collided with a sand-bin which had been lawfully placed on the pavement by defendant council under the authority of the London County Council (General Powers) Act, 1928, s. 33. This section also provides that the council must do nothing to hinder the reasonable use of the street by the public. On account of the Lighting (Restrictions) Order, 1939, there were no lights in the street, and the sand-bin was invisible to plaintiff proceeding without negligence. Obstructions in more important streets of the borough had either been lighted or painted white, but nothing had been done with regard to this particular street or sand-bin :—

*Held* : although the statutory duty to light the street was temporarily suspended by the Lighting (Restrictions) Order, 1939, the council was still under a common law duty to take such steps as were reasonable in the circumstances to prevent danger to persons using the highway. This it had failed to do, and was, accordingly, liable to plaintiff in damages.—*LYUS v. STEPNEY BOROUGH COUNCIL*, [1940] 4 All E. R. 75 ; 57 T. L. R. 4 ; 84 Sol. Jo. 575. [761]

*Pedestrian Crossing—Light-controlled Crossing—Crossing with Refuge—Whether Refuge Part of Crossing—Pedestrian Stepping from Refuge—Contributory Negligence—Pedestrian Crossing Places (Traffic) Provisional Regulations, 1935, rr. 2, 3, 4, 5.*

Plaintiff was crossing the road at a pedestrian crossing controlled by lights. At the centre of the crossing there was a refuge consisting of three paved sections, one carrying a lamp standard and the other two carrying pylons. Plaintiff had passed along the crossing to the island, and, after taking two or three steps from the island, he was struck and injured by defendant's car. It was found as a fact that neither party was using reasonable care, and at common law the action would have been dismissed. It was contended that plaintiff having been injured by a motor vehicle while on a pedestrian crossing was entitled to recover in spite of his contributory negligence :—

*Held* : the refuge was a separate entity from the crossing and a person stepping abruptly from the refuge was in the same position as a person stepping abruptly from the pavement on to the crossing and could, therefore, be guilty of contributory negligence. On the facts, plaintiff's negligence had contributed to the accident and the action would be dismissed.—*Decision of Asquith, J., affirmed.—WILKINSON v. CHET-HAM-STRODE*, [1940] 2 K. B. 310 ; [1940] 2 All E. R. 643 ; 109 L. J. K. B. 823 ; 163 L. T. 26 ; 104 J. P. 283 ; 56 T. L. R. 767 ; 84 Sol. Jo. 573 ; 38 L. G. R. 303, C. A. [762]

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## HIGHWAY NUISANCE

*See* HIGHWAYS.

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# HIGHWAYS, RIGHTS OF PRIVATE PERSONS AS TO

*See HIGHWAYS.*

## HOLIDAYS

ORDERS, CIRCULARS AND MEMORANDA :—

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### ORDERS, CIRCULARS AND MEMORANDA

#### ORDER IN COUNCIL . . . ADDING REGULATION . . . 58AB TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1940, No. 1217

*July 10, 1940*

\* \* \* \*

6. After Regulation fifty-eight A of the principal Regulations the following Regulations shall be inserted :—

58AA. . . .

58AB. “Power to amend directions under Acts relating to holidays with pay.—(1) The appropriate Minister within the meaning of the Holidays with Pay Act, 1938, may by order make provision in relation to any direction given under section one of that Act—

- (a) for the amendment by the order of any provisions of the direction which require the holidays to be allowed in pursuance thereof to be allowed on consecutive days ;
- (b) in the case of a direction which contains provisions for the allowing of holidays at times in the year nineteen hundred and forty, or within a period ending in that year, for postponing the times or extending the period at or within which the holidays to be allowed under those provisions are to be allowed :

Provided that no such time or period as is mentioned in subparagraph (b) of this paragraph shall be postponed or extended so as to expire later than—

- (i) in the case of a direction given by a Trade Board or by the Road Haulage Central Wages Board, the thirty-first day of March, nineteen hundred and forty-one ; or
- (ii) in the case of a direction given by an Agricultural Wages Committee, the thirty-first day of January, nineteen hundred and forty-one.

(2) An order made under this Regulation in relation to any such direction as aforesaid may provide that the direction shall have effect subject to any amendments which appear to the appropriate Minister to be requisite in consequence of any provision made by the order under the powers conferred by the preceding paragraph.

The power to amend a direction conferred by this paragraph shall be limited to the making, by way of amendment, of such provisions as could have been validly made by the direction :

Provided that the proviso to subsection (2) of section one of the said Act, so far as it relates to the allowing of holidays for periods exceeding in the aggregate one week in any period of twelve months, shall not have effect in relation to the power to amend a direction conferred by this paragraph.

(3) This Regulation shall, in its application to Northern Ireland, have effect subject to the following modifications—

- (a) for the references to the appropriate Minister within the meaning of the Holidays with Pay Act, 1938, there shall be substituted references to the Ministry of Labour for Northern Ireland ; and
- (b) for the references to section one of the Holidays with Pay Act, 1938, there shall be substituted references to section one of the Holidays with Pay Act (Northern Ireland), 1938.” [763]

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## HORSES, PONIES, MULES OR ASSES

*See ANIMALS.*

## HOSPITALS

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## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL . . . AMENDING REGULATION . . . 32 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1536*

*August 20, 1940*

\* \* \* \* \*

5. In paragraph (9) of Regulation thirty-two of the principal Regulations for the words “Ministry of Home Affairs” there shall be substituted the words “Ministry of Public Security”. [764]

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# ORDER IN COUNCIL AMENDING REGULATION 32 OF ... THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 2115*

*December 19, 1940*

\* \* \* \* \*

1. After paragraph (5) of Regulation thirty-two of the Defence (General) Regulations, 1939, there shall be inserted the following paragraph :—

“(6) Notwithstanding anything in the Osborne Estate Acts, 1902 and 1914, the Commissioners of Works may, during the continuance in force of this paragraph, use the part of Osborne House and the grounds mentioned in paragraph (b) of subsection (4) of section one of the Osborne Estate Act, 1902, for the provision of hospital treatment for persons suffering from injury, disease or incapacity in consequence of war operations.” [765]

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## CIVIL NURSING RESERVE

### C.N.R. Memo. 1

#### CONDITIONS AND TERMS OF SERVICE

##### PART I

##### GENERAL

1. **Constitution.**—The Civil Nursing Reserve has been formed for the purpose of maintaining a reserve of Trained Nurses, Assistant Nurses and Nursing Auxiliaries to supplement nursing staffs of Casualty Hospitals and to provide Local Authorities with nursing personnel for their First-Aid Posts and for certain nursing services in reception areas.

The Reserve operates only in England and Wales. (Similar organisations have been established in Scotland and Northern Ireland.)

Members undertake to report for nursing duties when called upon in time of War. Their enrolment does not otherwise interfere with their normal occupation. [766]

2. **Eligibility for enrolment.**—Suitable applicants from the following classes may be enrolled :—

(a) *Trained Nurses* (excluding those already in essential employment, *i.e.* those employed in Hospitals, District Nursing, Public Health and Industrial Nursing) who must be either State Registered Nurses on the General and/or Special parts of the Register or, if not State Registered, hold certificates of general training for at least three years in a recognised training school.

(b) *Assistant Nurses*, *i.e.* those who are only partially trained but who are, or have been, earning their living by nursing; (the same exclusion as to essential employment applies as in (a) above);

(c) *Nursing Auxiliaries* who

- (i) undertake and satisfactorily complete the course of training approved by the Minister of Health and set out in Part II; or
- (ii) belong to the St. John Ambulance Brigade or British Red Cross Society and have previously completed satisfactorily a similar course of training; or
- (iii) are already qualified by reason of auxiliary nursing experience during the last War; or
- (iv) being engaged in a profession allied to Nursing (*e.g.* Massage) can offer temporary service as Nursing Auxiliaries pending employment in their own profession.

*Note.*—In general, applications will not be accepted from persons who are already committed to other War Service, *e.g.* A.R.P. Wardens, Ambulance Drivers, etc., unless it is known that they are no longer required for those services. [767]

**3. Male Nurses.**—Applications from Male Nurses willing to undertake nursing duties in connection with Civil Defence are specially noted. The particulars furnished by such applicants are communicated to employing authorities who apply to the Civil Nursing Reserve for the services of Male Nurses in time of War.

Male nurses who are appointed to posts in connection with the Civil Defence Services through the medium of the Civil Nursing Reserve normally receive the scale of pay and emoluments applicable to similar male nursing staff of the Hospital or Institution to which they are appointed. [768]

**4. Applications for enrolment.**—All applicants must complete the appropriate form which may be obtained from the addresses at the end of this leaflet, and must immediately notify any change of address or change of circumstance which may affect their offer of service. [769]

**5. Age Limit.**—No allocation to whole time nursing duty will be made in the case of members over 60 years of age. [770]

**6. Health.**—Applicants must be physically fit to undertake active nursing service and may be required to undergo a medical examination before taking up duty in hospital in accordance with the ordinary practice of the hospital. [771]

**7. Register.**—Particulars of applicants accepted for the Reserve will be recorded in the Register of the Civil Nursing Reserve, which is maintained on a territorial basis in County and County Borough Areas. In each County or County Borough a Local Emergency Organisation has been established to consider applications, arrange for training of Nursing Auxiliaries, allocate members to the posts at which they will be required in an emergency, and generally be responsible for the efficient organisation of the Reserve in its area. Normally, the Local Emergency Organisation consists of the County or County Borough Medical Officer of Health, with a representative advisory committee, and is centred at the office of the Medical Officer of Health. [772]

*Note.*—Registration does not provide any guarantee of employment.

**8. Availability for service.**—Applicants may offer for whole or part-time service in War and may restrict the offer of service to their own locality. Offers of full-time *mobile* service are also registered in the first instance in the area in which the applicant resides but willingness to serve anywhere in England and Wales is specially recorded with a view to transfer of allocation if circumstances require it. [773]

**9. Service preferred.**—So far as practicable, due regard is had to the particular form of duty for which applicants may express a preference, but no undertaking can be given that members will be allocated to or employed in the service preferred. [774]

**10. Membership badge.**—On registration, members are given a special badge, free of charge, in recognition of the obligation they undertake as members of the Civil Nursing Reserve, and sign an undertaking to serve when called upon in an emergency.

Badges are issued through the Local Emergency Organisations and must be surrendered on termination of membership.

In the event of loss, another badge will be issued at the discretion of the Medical Officer of Health on payment of replacement value, viz. 1s. 6d.

Permission has been given to wear the badge on the left side. [775]

**11. Injuries sustained in the course of duty.**—Members of the Civil Nursing Reserve (including persons who are being trained for the purpose of serving in the Reserve) are eligible under the Personal Injuries (Civilians) Scheme, 1939, for injury allowances if incapacitated by physical injury arising out of and in the course of performance of their duties. (For sick Pay see Part III, para. 10.) [776]

**12. Employment.**—When employed in a hospital the member will be subject to the directions of the Matron of the hospital. When employed at a First-Aid Post she will act under the directions of the Medical Officer supervising the personnel of the post, or of the Medical Officer of Health, and, when employed in the District Nursing service, under the directions of the Superintendent or other local officer of the service. [777]

## PART II

### TRAINING OF NURSING AUXILIARIES

1. Offers of service as Nursing Auxiliaries from persons who do not wish to join either the St. John Ambulance Brigade or British Red Cross Society should be sent to :

- (a) The Secretary, Ministry of Health (Civil Nursing Reserve), Romney House, Marsham Street, London, S.W.1, or
- (b) The Medical Officer of Health of the County or County Borough in whose area the applicant resides, or
- (c) The nearest branch of Women's Voluntary Services for Civil Defence or the Head Office of that Organisation, 41, Tothill Street, London, S.W.1. [778]

2. Applicants must be between the ages of 18 and 55 years and may be required to attend for interview before acceptance for training. The main considerations for acceptance are age, health, education and

intelligence. The name and address of a responsible person must be furnished for purposes of reference. [779]

3. The arrangements for the training of accepted applicants will be made by the Local Emergency Organisation of the County or County Borough in which the applicant resides or is employed.

The training is in two parts.

The first part comprises two courses of instruction, one in First Aid, the other in Home Nursing. Candidates will be required to reach the standard in First Aid required by the St. John Ambulance Association, the British Red Cross Society, the St. Andrew's Ambulance Association, the London County Council or the National Fire Brigade Union and in Home Nursing, the standard recognised by the St. John Ambulance Association, the British Red Cross Society, the St. Andrew's Ambulance Association, or the London County Council.

Candidates who have previously obtained one or other or both of the certificates of the above bodies in those subjects will be excused the course or courses in which they have qualified.

The training is given without charge and includes free provision of text books.

The second part is a course of practical work in Hospital which is common to all candidates, whether or not they join the St. John Ambulance Brigade or British Red Cross Society. Candidates are able to qualify in this part of the training by attendances of not less than 50 hours at the times most convenient to the hospitals and the candidates. If, however, a candidate can give more time to this part of the training she is recommended to take 96 hours.

In certain areas which are Reception Areas under the Government's Evacuation Scheme a course of practical instruction by a District Nurse may be substituted for the Hospital instruction, but in such circumstances the candidate's offer of service would be confined to assisting in District Nursing and school medical work in Reception Areas. [780]

4. An overall and cap specially designed for Nursing Auxiliaries is issued free of charge for purposes of the Hospital or District Nursing instruction and may be retained after satisfactory completion of the course of training. The Nursing Auxiliary must undertake to keep them in clean and serviceable condition (subject to fair wear and tear), to pay replacement value if lost, and to surrender them if called upon to do so by the duly authorised officer of the Local Emergency Organisation. [781]

5. Members of the St. John Ambulance Brigade or British Red Cross Society who have applied for enrolment as Nursing Auxiliaries are required by their Societies to wear the uniform of their respective organisations and will not receive the free overall and cap. They will, however, following satisfactory completion of the course of Hospital or District Nursing instruction and subsequent registration as members of the Civil Nursing Reserve, be entitled to a grant of 5s. in lieu of free issue of overall and cap. Application for this grant should be made to the Superintendent of the Nursing Division or Commandant of the Detachment to which the member belongs. [782]

6. All qualified Nursing Auxiliaries who have not been called up for duty are expected to maintain their efficiency by attendance at the practices which will be organised for the purpose. [783]

## PART III

TERMS OF SERVICE FOR MEMBERS OF THE NURSING  
RESERVE CALLED UP FOR DUTY

## A. WHOLE-TIME SERVICE

**1. Calling Up.**—Members will be called up for service by written notice, signed

(a) in the case of members allocated to hospitals, by or on behalf of the voluntary hospital, or in the case of municipal hospitals, by or on behalf of the Local Authority.

(b) in the case of First-Aid Post workers by or on behalf of the A.R.P. Authority.

(c) in the case of District Nursing members, by or on behalf of the Local Authority in a Reception area. [784]

**2. Rates of Pay.**—When called up for whole-time duty, members will receive pay at the rates laid down. The rates payable are:—

*Trained Nurses.*—£90 per annum, plus board, lodging and laundry.

Trained Nurses in charge of Wards or Departments in Hospitals may be granted an additional allowance of £20 per annum.

Nurses registered only on special parts of the State Register (Children's Nurse, Fever Nurse, Mental Nurse) are eligible for the Trained Nurses rate of pay if employed in their special branch of nursing but, if allocated for general nursing duties, they will receive the pay of Assistant Nurses.

*Assistant Nurses.*—£55 per annum, plus board, lodging and laundry.

Where an Assistant Nurse bears special responsibilities, she may in certain circumstances be paid at the rate of £65 per annum.

*Nursing Auxiliaries.*—£2 per week non-resident. This is the general rate laid down for Women Civil Defence Volunteers. (For deductions from pay if resident, see next paragraph.) [785]

**3. Allowances and Deductions.**

(a) Where a Trained Nurse or an Assistant Nurse is not provided with full board and lodging, either in a Hospital or under arrangements\* made by the Local Authority or Hospital, an additional sum of one guinea per week will be payable to her. An additional sum of 3s. 6d. per week is payable in respect of laundry, if not provided. Where any meals are taken by such members at the Hospital, they are required to pay for them on the following scales:—

Breakfast	..	..	3s. 3d. per week
Midday Dinner	..	..	7s. 0d. "
Tea	..	..	2s. 6d. "
Supper	..	..	3s. 3d. "

(b) Where a Nursing Auxiliary is provided with full board and lodging, either in a Hospital or under arrangements\* made by the Local Authority or Hospital, she will be charged one guinea a week, subject to adjustment at the

\* The arrangements may take the form of billeting by the Local Authority at the request of the Hospital. Full board and lodging is valued at one guinea a week, i.e. board 16s. and accommodation 5s.

rates set out in the above scales where only partial board or lodging is provided. Where laundry is provided a charge of 3s. 6d. per week will be made. [786]

**4. Travelling Expenses.**—The individual member must bear the cost of travelling to and from her place of employment, but where any appreciable journey is involved when she first reports for duty, a request for refund of third-class railway fare may be submitted to the employing authority. Alternatively a ticket may be sent to her by the employing authority on special application. If a member of the Reserve is required to transfer from one place of employment to another during the course of her service the travelling expenses will be paid by the authority to whose service she is transferred. [787]

**5. Statutory deductions for Health, Pensions and Unemployment Insurance Contributions.**—The appropriate deductions will be made for National Health and Pensions Insurance and contribution cards must be produced to the employing authority. Employment as a Trained Nurse or Assistant Nurse is excepted from the provisions of the Unemployment Insurance Act but Nursing Auxiliaries are required to pay the appropriate part of the contribution payable under that Act. [788]

*Note.*—Not more than one Trained Nurse can be officially appointed in that capacity at a First-Aid Post. If a Trained Nurse or Assistant Nurse elects to serve at a First-Aid Post in excess of this establishment, she will rank for purposes of pay and Health and Pensions and Unemployment Insurance contributions as a woman A.R.P. worker. [789]

**6. Superannuation.**—No Superannuation Fund contributions are payable by employers in respect of service as members of the Reserve. [790]

**7. Uniform.**—Trained Nurses are provided with six white dress overalls, 2 blue belts and 4 army-type caps, free of charge, *when called up for whole-time duty*. Nurses registered only on special parts of the State Register are provided with the same overalls to be worn without the blue belt and 4 Sister Dora caps.

Assistant Nurses are provided with 6 white overalls and 4 Sister Dora caps, *when called up for whole-time duty*.

Nursing Auxiliaries receive, when called up for duty, a second overall and cap, in addition to the overall and cap issued during training. Provision is also made for the issue of a third overall and cap for contingencies and arrangements have been made for supplementary issues to Hospitals for this purpose. In addition, aprons will be provided to the Hospitals for the use of Nursing Auxiliaries.

Uniform must be surrendered on termination of service.

No refund can be made in respect of uniform purchased without authority by individual members of the Reserve.

Members of the St. John Ambulance Brigade or British Red Cross Society who have registered for whole-time service as Nursing Auxiliaries in the Civil Nursing Reserve will receive an additional grant of 5s. in lieu of free issue of second overall and cap. This grant can be obtained by completion of a form of certificate of employment and the necessary forms will be issued to members by the responsible officers of the Order and the Society. [791]

**8. Hours of duty.**—The hours of duty and free time will be conditioned by the nature of the emergency and the needs of the employing authority, but full-time members will be expected to work a minimum of 48 hours a week (in hospital, 96 hours a fortnight). [792]

**9. Annual leave.**—The conditions of annual leave will be subject to instructions issued to employing bodies from time to time and under the present arrangements leave with full pay and emoluments will be allowed up to twelve days annually including public holidays. [793]

**10. Sick leave.**—Sick leave will be allowed as for A.R.P. and Civil Defence personnel generally, *i.e.* after three months' service, up to three weeks on full pay, after twelve months' service, up to three weeks on full pay, followed by three weeks on half pay in any period of twelve months, subject to medical certificate and subject to deduction of sickness benefit under the National Health Insurance Act if payable. For members working in hospital there will be no qualifying period.

Free hospital treatment will be given according to the custom of the hospital. [794]

**11. Termination of service.**—The services of trained nurses or assistant nurses may be terminated by one month's notice from either employer or employee.

In the case of Nursing Auxiliaries the period of notice required is one week, but employers will doubtless give such longer notice as circumstances permit of the date on which the Auxiliary's services will no longer be required.

If a member of the Reserve gives notice of termination of service she should state whether she wishes to terminate her membership of the Reserve or whether she wishes her name to remain on the strength of the Reserve for further allocation when she is again available for duty.

Power to remove a member from the Register is reserved to the Central Authority.

A member may be required to retire from whole-time duty on reaching the age of 60 years. [795]

#### B. PART-TIME SERVICE

**12. Travelling expenses.**—No payment will be made for part-time service but travelling expenses to and from duty by public transport may be claimed and will be paid by the employing authority in respect of such service, where the local circumstances justify such payment. [796]

**13. Uniform.**—Paragraph 7 of Part III applies equally to members called up for part-time duty. The issue of uniform will be conditioned by the amount of service given. The uniform provided may be washed at the hospital without charge to the part-time member. Members of the St. John Ambulance Brigade and British Red Cross Society who give part-time service will not, however, be entitled to the second grant of 5s. referred to in that paragraph. [797]

**14. Meals.**—If the duty hours of a member employed in Hospital for part-time duty are such that the provision of a meal is considered desirable by the employing authority, no charge will be made to the member. [798]

*All correspondence and enquiries should be addressed:—*

THE SECRETARY, MINISTRY OF HEALTH,  
(CIVIL NURSING RESERVE),  
ROMNEY HOUSE,  
MARSHAM STREET,  
LONDON, S.W.1,

*or locally to the Medical Officer of Health of the County or County Borough.*

## EMERGENCY HOSPITAL SCHEME

*Circular 1938*

*December 29, 1939*

### PAYMENT IN RESPECT OF CASUALTIES

SIR,—1. I am directed by the Minister of Health to refer to Circular 1874 which was issued to you on the 20th September, and in which it was stated that the reasonable and necessary cost of treating and maintaining any casualties in hospital, including patients transferred under the Emergency Hospital Scheme, A.R.P. volunteers injured in the course of their duty, Service casualties (with which should have been included Service sick) and evacuated children unaccompanied by an adult, would be met by the Exchequer. I am now to set out certain conditions to be observed by hospitals in providing for the treatment of these classes of patient, together with the Minister's decisions on a number of financial points which Hospital Authorities have raised from time to time. [799]

### TRANSFERRED PATIENTS FOR WHOM THE MINISTER IS RESPONSIBLE

2. Normally patients transferred under the Emergency Scheme are first admitted to an inner hospital and transferred subsequently, on the directions of the Group Officer or the Hospital Officer, in order that beds should be made available for other patients requiring admission without encroaching on the beds being kept for casualties. In the circular letter sent to you on the 8th November (E.M.S./Gen./286) it was stated that a nominal roll of patients being transferred must be prepared in triplicate, of which one copy should be retained by the transferring hospital, and two copies, signed by the Medical Superintendent of the transferring hospital, should be sent to the receiving hospital with the patients. The letter added that one of these copies was to be retained by the receiving hospital (the other being returned with confirmation of arrival to the transferring hospital) as their voucher to the Department that the patients were properly chargeable to the Government. [800]

3. In those cases where it is not practicable that patients should be actually admitted to the inner hospital before transfer to the outer,

the same procedure is to be followed; *i.e.* the patients must be vouched for by the Medical Superintendent of the inner hospital as being properly transferred in accordance with the directions of the Group Officer or Hospital Officer, if responsibility for the cost of their treatment at the outer hospital is to be accepted by the Ministry. [801]

4. The Minister is not satisfied that in every case this procedure is being followed, and I am to emphasise that he cannot accept responsibility for the cost of treating transferred patients unless the receiving hospital is able on request, to produce particulars relating to the admission of the patient on a form signed by the Medical Superintendent of the transferring hospital. It will be convenient if these particulars are kept by all hospitals in the same form, and a copy of a form is attached to this circular (Form E.M.S. 116) which hospitals are requested to use for the purpose in the future. Further, the Minister thinks it desirable that these forms should be counter-signed by the Group Officer or Hospital Officer authorising the transfer, and I am therefore to say that as from 1st January, 1940, a transferring hospital should, as at present, complete the form in triplicate, and retain one copy; but send only one copy to the receiving hospital, the third copy being sent to the Group Officer or Hospital Officer responsible for authorising the transfer. The Group Officer or Hospital Officer will then counter-sign the form and send it on to the receiving hospital for them to retain as their official voucher that the patient was properly transferred. Where it is necessary for a transferred patient to be received in the outer hospital before the form counter-signed by the Group Officer or Hospital Officer can be received, the receiving hospital should obtain confirmation of the transfer by telephone. [802]

#### PATIENTS TRANSFERRED BETWEEN INSTITUTIONS OF THE SAME AUTHORITY

5. It was stated in Circular 1874 that the Government would pay receiving hospitals for the cost of treating normal sick transferred from one hospital to another under arrangements made by the Minister's Hospital Officers but that this would be subject to some adjustment with the Local Authorities or combinations of Authorities normally responsible for the care and maintenance of their patients. The Government, therefore, do not propose to pay Local Authorities for the cost of maintaining patients transferred from one hospital belonging to them to another also under their management, but any net increase of cost to an Authority arising from the transfer will be reflected in the settlement with the Ministry. As regards mental hospitals and mental deficiency institutions, a separate circular will very shortly be addressed to Mental Hospital Visiting Committees, Mental Hospital Boards, Mental Deficiency Committees and Joint Boards for the Mentally Defective, explaining to them that where patients have been transferred from one hospital or institution to another, the receiving hospital or institution should send to the transferring hospital or institution a claim for the cost of maintaining the patients, and that the transferring hospital or institution should settle the claim subject to any necessary adjustment with the Ministry where the cost of maintaining the patients has been increased by the transfer. [803]

## CONTRIBUTIONS FROM PATIENTS

6. All Hospital Authorities receiving transferred patients under the Emergency Hospital Scheme are requested to obtain from these patients a contribution towards the cost of their treatment according to the patient's ability to pay. This does not apply to air-raïd casualties, A.R.P. volunteers injured in the course of their duty, evacuated unaccompanied children, or Service casualties or sick. For this purpose receiving hospitals will require to designate an officer who will be responsible for the collection of contributions. Hospitals which are being required to receive transferred patients in large numbers should, as a rule, arrange for the appointment of an Almoner, if possible one who has been transferred from the staff of the inner hospital to which the hospital is affiliated; and the Minister will be prepared to recognise the salary of an Almoner in these conditions as being properly incurred under the Emergency Scheme, and will reimburse it to the hospital as part of the expenses of treating and maintaining casualties. Where the number of patients being received by transfer does not warrant the appointment of a whole-time Almoner it may be possible for the hospital to combine with two or three others in sharing the services of an Almoner. In appropriate cases it may be practicable to utilise public assistance staff for the collection of contributions provided that they are re-designated while engaged on this work, and so far as possible divorced for the time being from their connection with public assistance. [804]

7. Generally speaking, the contributions to be obtained from patients should be approximately the same as would have been obtained from them had their treatment been completed in the inner hospital from which they were transferred. Where a patient has been assessed for a contribution in the inner hospital before transference, the inner hospital should inform the outer hospital of the assessment which has been made and contribution should be continued at the same rate. Where this has not been practicable, the Almoner or other officer of the outer hospital should be able to arrange for contributions to be assessed on approximately the same scale by maintaining close contact with the Almoner of the inner hospital. [805]

8. An exact record must be kept by hospitals of contributions received from patients, as these will be credited to the Ministry in the financial settlement under the Emergency Scheme. [806]

## CONTRIBUTORY SCHEMES

9. The Minister has arranged with the Contributory Schemes Association and with the Hospital Savings Association that contributions should be paid by all Contributory Associations to any hospitals, whether voluntary or municipal, receiving transferred patients for whom the Minister has undertaken responsibility. Contribution will be paid as follows:—

*Hospital Savings Association.*

	<i>For the first six weeks.</i>	<i>For the next four weeks.</i>
For a contributor ..	15s. a week	10s. 0d. a week
For an adult dependant	10s. „	7s. 6d. „
For a child .. ..	5s. „	2s. 6d. „

[807]

*Other Contributory Scheme Associations*

The Contributory Schemes Association has agreed that the contributions to be paid by all other Associations in respect of their contributors and dependants will be 30s. for every case regardless of the length of stay. [808]

10. Accordingly Hospital Authorities are not required to collect contributions from transferred patients who are members of a Contributory Scheme Association, and they are required to accept the vouchers of the Association in lieu of a contribution from the member. [809]

## UNACCOMPANIED EVACUATED CHILDREN

11. No contribution is to be collected in respect of any child evacuated under the Government Scheme and unaccompanied by an adult relative, since it has been decided that the collection from parents of such children of payments towards the cost of billeting will continue while the children are in hospital. Accordingly the arrangement with the Contributory Schemes and Savings Associations will not apply in relation to such children. [810]

12. As regards the Minister's liability under the Emergency Hospital Scheme for the cost of treating these children in general, I am to say that no liability will be accepted in respect of children suffering from infectious diseases, since separate arrangements are being made by the Ministry with Local Authorities for the provision of hospital treatment for these cases. [811]

13. Furthermore, the liability accepted by the Ministry for the treatment of evacuated children subsequently admitted to hospital for the treatment of tuberculosis, will be limited to the additional costs incurred in respect of such patients after taking into account any repayments by the Tuberculosis Authorities who would normally be responsible for the cost of treatment. [812]

## MISCELLANEOUS EXPENDITURE IN CONNECTION WITH TRANSFERRED PATIENTS

(1) *Cost of special appliances required by patients for whom the Ministry are responsible*

14. Several Hospital Authorities have asked the Department whether expenditure can be incurred on the provision of such appliances as calipers and trusses which are required by casualties or transferred patients as part of their treatment. Hospitals must provide whatever appliances are essential to the treatment of patients while in hospital, and the cost of these can be included in the cost of maintenance and treatment for which the Minister has undertaken to be responsible. This does not apply to the provision of such appliances as artificial limbs which are normally supplied after discharge from hospital; these are being considered separately. [813]

(2) *Return home of transferred patients on discharge from hospital*

15. Where the payment by a transferred patient of the fare home would involve serious hardship, and the distance to be travelled exceeds 15 miles, the Minister is prepared to reimburse the cost of third-class

railway fare. Books of railway warrants have already been issued to hospitals where a large number of transferred patients are being treated, with authority to issue a warrant to a patient in the circumstances set out above. Where no railway warrants have been issued to a hospital, the hospital may, on being satisfied that the above conditions are met, pay the patient's third-class fare home and reclaim the cost from the Ministry as part of the cost of treating the patient; and any hospital having a considerable number of such patients should apply to the Ministry (A.G.D.1) for a book of warrants if they have not already been issued. This principle will apply equally to mental and mentally defective patients discharged from a Mental Hospital or Mental Deficiency Institution to which they have been transferred. [814]

(3) *Return of bodies of transferred patients who have died in hospital*

16. The Minister cannot undertake to pay the expense of transporting to their homes the bodies of patients who have died in outer hospitals. If a patient who has been transferred on the directions of a Hospital Officer or Group Officer dies away from home, and his or her relatives are unable to undertake the expense of burial, the reasonable cost may be undertaken by the County Borough, Borough or District Council of the area as part of their responsibilities towards evacuated persons generally. Again the principle applies equally to transferred mental and mentally defective patients. [815]

(4) *Travelling expenses of relatives*

17. Ordinarily the Minister cannot undertake to contribute towards the cost incurred by relatives on visiting patients in outer hospitals; but in order to meet cases where the hospital notify the relatives that a patient is dangerously ill, and the relatives are unable to pay the necessary fares, the Minister is arranging with Public Assistance Authorities that cases of need will be investigated by Officers of the Committee. Where they are satisfied that relatives are unable to pay the fares, the sum required to meet the fares of not more than two relatives will be advanced. The advance will be subject to recovery in certain cases. [816]

18. Accordingly I am to ask that when hospitals (including mental hospitals and mental deficiency institutions) notify relatives that a transferred patient or a casualty or an unaccompanied evacuated child is dangerously ill, and the distance from the hospital of origin or from the patient's home is greater than 15 miles, they should, if there is reason to apprehend that the relatives may not be in a position to find the fare, state in the telegram that if the relatives wish to visit the patient and cannot afford the expense they may present the telegram to an Officer of the Public Assistance Committee, and on the Officer being satisfied that there is a case of need, the relatives will be provided with tickets for a journey to the hospital for not more than two persons. A contribution towards fares cannot be made more frequently than once a week. [817]

19. The Minister is at present in communication with Public Assistance Authorities with a request that they will assist in the manner indicated, and he feels sure that they will do so; but as it will take them a little time to make the necessary arrangements I

am to ask that no reference will be made to the use of the public assistance machinery in telegrams to relatives for a fortnight from the date of this Circular—*i.e.* not before 14th January, 1940. [818]

(5) *Ambulances*

20. Where it is necessary for a hospital to incur expense on ambulance transport for a casualty or transferred patient or unaccompanied evacuated child, the hospital must be responsible for the payment in the first instance, but the Minister will take the cost into account in the financial settlement with the hospital on being satisfied that the provision of an ambulance was necessary and was agreed to by the Hospital Officer. In certain circumstances it may be possible to arrange with the Local Authority for the use (without expense) of one of the standing-by vehicles of their A.R.P. service: but it will generally be undesirable to adopt this course where a lengthy journey is involved considerably beyond the boundaries of the Local Authority's administrative area. In such cases the hospital may make arrangements for a private or municipal ambulance provided that the Hospital Officer has agreed that the patient concerned is to be moved at once, without waiting until such time as there may be a sufficient number of other cases requiring ambulance transport as to warrant the use of one of the large coach ambulances at the Hospital Officer's disposal. Hospitals should endeavour to keep expenditure in hiring ambulances to a minimum. [819]

(6) *Claims for reimbursement*

21. Claims for reimbursement of expenditure incurred under the five preceding headings should not be submitted as the expenditure is incurred, but should be forwarded as part of the periodical accounts of expenditure in the treatment of casualties and transferred sick. The exact method by which accounts are to be submitted has still to be settled with the representatives of Local Authorities. [820]

#### FIGHTING SERVICES

22. Enquiries have been received in the Department as to the classification of cases of sickness among Service patients. These should be included with cases of injury to members of the Services, as payment for their treatment will be made by the Ministry in the same way as payment for the treatment of air-raid casualties. [821]

23. It should be noted that for hospital purposes Service patients include both male and female uniformed members of the Fighting Services, and also members of the Army, Navy and Air Force Nursing Services and members of Voluntary Aid Detachments. In peace time officers on half-pay, members of soldiers' families, and some other categories, are eligible for treatment at Government expense in certain circumstances. In war time these cases will, of course, be treated as chargeable to the Exchequer if they are casualties, unaccompanied evacuated children or transferred sick. Apart from this they may be treated as chargeable to the Exchequer if they produce a certificate from the Defence Department concerned that they are eligible for free medical treatment, and the cost of their treatment will in that event be met in the same way as the cost of treating a Service patient. A special certificate must be secured for this purpose,

and reliance must not be placed on any other documents or on statements by the individual as to his rights. The certificate must subsequently be retained by the hospital as their voucher to the Ministry that the patient was properly chargeable. [822]

24. No claim should be made on any of the Defence Departments in respect of treatment given to Service patients in a hospital which is included in the Emergency Hospital Scheme. Treatment of Service patients at a hospital outside the Scheme—*e.g.* for infectious disease at an infectious diseases hospital, or for mental illness at a mental hospital will, however, be a matter for the Defence Departments in the ordinary way. This applies where a hospital is partly inside the Scheme and partly out; *e.g.* where arrangements have been made at an infectious diseases hospital to provide accommodation for a certain number of casualties, the remainder of the hospital being retained for its ordinary purpose. If a Service patient is received into the part of the hospital retained for the treatment of infectious disease, the cost of his treatment is, as already explained, a matter between the Hospital Authority and the appropriate Defence Department; if, however, he is suffering from some non-infectious illness and is received into the part of the hospital allocated for casualties, the cost of his treatment will be taken into account in the financial settlement between the Ministry and the Authority. [823]

#### POLICE SICK

25. It was originally understood that Police Forces desired that payment for Police sick received into hospitals included in the Emergency Hospital Scheme should be made initially by the Ministry in the same way as payment for Police casualties. It now appears, however, that this arrangement would not be satisfactory, and accordingly arrangements for the treatment of Police sick will be the same as they are in normal times. Claims for the cost of their treatment should not, therefore, be forwarded to the Ministry. [824]

#### MEDICAL STUDENTS

26. It was stated in paragraph 11 of E.M.S. Gen. 272 that the cost of providing board and lodging for medical students attached to hospitals for the purpose of assisting in the Emergency Hospital Scheme, might be included in the cost of maintaining and treating casualties for which the Minister has undertaken to be responsible. The Minister has further considered this arrangement, however, and he has come to the conclusion that in present circumstances he is not justified in regarding the assistance of medical students as necessary to the Scheme, so as to enable the board and lodging to be accepted as a charge on the Government. Accordingly as from the 1st January, 1940, the Minister will cease to be responsible for the cost of providing board and lodging for any medical students. [825]

27. The Minister is prepared, however, to secure that medical students should continue to be billeted under arrangements made by the Local Authority's Billeting Officer where they are attached for teaching purposes to institutions other than their normal Teaching Hospital, and consequently have to change their place of residence.

The instruction to Billeting Officers of Local Authorities that billets are to be found for medical students where the Hospital Authority request them to do so will accordingly be allowed to stand, and householders will be paid as at present through the Post Office at the rate of 5s. a week where lodging only is provided, and of one guinea a week where board is provided in addition. Similarly, where students are accommodated in the outer hospitals, the arrangement can be continued (unless the accommodation is needed for hospital staff who must have the prior call). The Minister will however, arrange with the Teaching Hospitals that the students should repay the cost of their accommodation in the billets, or in the hospital, and the money thus received will be credited to the Government or to the Hospital Authority as may be appropriate. [826]

28. In the event of the situation altering so as to cause extreme pressure on the hospitals, and to necessitate the actual employment of the students in assisting with the treatment of casualties, the above arrangements for recovering the cost of their accommodation from the students would be suspended for any period of a week or more during which they were so employed. [827]

#### FARES OF HOSPITAL STAFF

29. The Minister is prepared to reimburse to hospital staffs who have been transferred under the Scheme the cost of any considerable journeys which they have to undertake on taking up duty at the new hospitals. The expense should be refunded to the officers by the receiving hospitals and they should in due course make a claim upon the Ministry. [828]

30. In cases where the transfer of staff has resulted in their being stationed at a substantially greater distance from their families than they were in the hospital of origin, the Minister is prepared to reimburse to them the cost of their fare home twice a year. Third class return tickets may be provided and the distance must exceed 15 miles. The money should be provided to the officers by the hospitals to which they are attached and the expenditure included in the claim made by the hospital on the Ministry. [829]

31. The concessions allowed in paragraphs 29 and 30 apply equally to the staffs of mental hospitals and mental deficiency institutions who have been transferred under the Emergency Hospital Scheme. [830]

I am, Sir, etc.

\* \* \* \* \*



## EMERGENCY HOSPITAL SCHEME

*Circular 1943**January 1, 1940*PAYMENT OF FARES OF NECESSITOUS RELATIVES VISITING CASUALTIES  
AND TRANSFERRED PATIENTS IN OUTER HOSPITALS

SIR,—Under the Emergency Hospital Scheme a number of hospitals have been established outside the most congested areas, and it is anticipated that in the event of air raids these hospitals will serve as the main hospitals to which casualties will be transferred for the major part of their treatment. Further, in order to keep beds in the hospitals inside the congested areas available for casualties, ordinary sick patients are already being transferred from the inner to the outer hospitals for completion of their treatment, or in some cases for the whole of their treatment. The Minister has undertaken to be responsible for the cost of treating both casualties and transferred sick and also for the cost of providing hospital treatment for children who have been evacuated unaccompanied by an adult. Accordingly there are a number of patients who are at present being treated, under arrangements for which the Minister is responsible, in hospitals situated at varying distances from those in which they would be treated in time of peace.

The question of visits from relatives is likely to arise in all these classes of case. The Minister has had under consideration the possibility of assisting towards the cost of fares in cases of need, and he is prepared to make a contribution in cases where a patient in an outer hospital becomes dangerously ill, and the relatives are unable to find the fare themselves without serious hardship.

In these cases it is essential to provide some machinery by which necessitous persons, on learning that a near relative is dangerously ill in an outer hospital, can obtain the money required for the fare at short notice; and it appears to the Minister that the only practicable method of providing this is to seek the help of Public Assistance Authorities. Accordingly I am to say that the Minister would be most grateful if your Council would arrange for their Relieving Officers to investigate cases of need on his behalf, and on being satisfied that the need exists, to provide the fare required, on terms of reimbursement by the Department of all expenditure incurred by them.

The Minister has requested Hospital Authorities, when notifying relatives that a casualty or transferred patient or unaccompanied evacuated child is dangerously ill, to state in the telegram, in any case where there is reason to apprehend that the relatives may not be in a position to find the fare, that if they wish to visit the patient and cannot afford the expense, they may present the telegram to the nearest Relieving Officer and on the Officer being satisfied that there is a case of need, the relatives will be provided with sufficient money to pay the return fare for not more than two persons to and from the hospital. This is subject to the two provisos that the distance from the hospital of origin (or, if the patient is not a transferred patient, from his home) must be greater than 15 miles, and that a contribution towards fares cannot be made for more than one visit a week. The Minister has asked Hospital Authorities to make no reference to the

use of the public assistance machinery for at least a fortnight from the date of this Circular in order that Public Assistance Authorities may have time to give their Officers the necessary instructions.

The Minister recognises that in the time that will be available it would not be practicable for the Council's Officers to make any detailed investigation into the means of the applicant, and he is content that they should form a judgment as best they can on the facts as stated by the relative. In appropriate cases the money should be expressly advanced on loan, but the Minister must leave it to the Council's officers to decide which cases can be considered appropriate for assistance by way of loan, regard being had to ordinary public assistance standards. Since it is not always possible to consult relatives before patients are transferred to outer hospitals, and the circumstances in which fares would be paid are necessarily painful to the persons involved, the Minister is particularly anxious that any cases of genuine hardship should be met.

As indicated above, the Minister will reimburse to your Council any money properly expended on his behalf under the terms of this Circular, together with any reasonable and necessary cost in which they are involved in recovering money which has been advanced on loan. The telegram which the relatives should be asked to produce to the Relieving Officer should be retained by him together with receipts and any other relevant documents as evidence of the money granted or lent. The Minister does not anticipate that there will be any great number of claims for assistance under the Circular, so that no question of the cost of administration is likely to arise; but if it should arise, he would be prepared to consider any statement that a Local Authority have been involved in additional expenditure through carrying out this service, and if satisfied that such is the case, to reimburse the cost.

There are a very few cases in which relatives who have already been summoned as a matter of urgency to an outer hospital are asking that the Ministry should refund the expenditure involved. Where it appears that real hardship would be involved in leaving the relatives to bear the expenditure the Minister is prepared to make a retrospective contribution, and he proposes to inform the persons concerned that they should lay the facts before the nearest Relieving Officer who will have power to assist them if satisfied that the case is a proper one for assistance. The same principles should be applied in deciding retrospective cases as in deciding future ones.

I am to add that the Minister has informed all Hospital Authorities that he is not prepared to pay for the transport home of the bodies of patients for whom he has assumed financial responsibility and who die in an outer hospital. A separate communication is being addressed to the appropriate Local Authorities asking them, in cases of need, to provide for the burial of these patients in the area where they die. It may be that Public Assistance Authorities will receive applications for assistance towards the fare of relatives desiring to attend the funeral, but the Minister is not prepared to contribute towards this expenditure.

[832]

I am, Sir, etc.

\* \* \* \* \*

## CASES

*Payment other than in Coin of the Realm—Stoker in Hospital—Whether Hospital a Domestic Establishment and Stoker a Domestic Servant—Truck Act, 1831 (c. 37), ss. 1, 4, 20.*

Plaintiff was employed by the defendant hospital as a stoker in the engineering department. His chief duty had been to stoke the boiler by hand, but, when mechanically-fired boilers were introduced, the plaintiff was styled a mechanic and performed certain duties requiring skill, such as cleaning and repairing the boiler, and repairing the coal conveyor. He also did certain work on the pumps and turbines, did minor repairs to taps and lights, and assisted the engineers in the repair of electrical and mechanical appliances. In a claim under the Truck Act, 1831, s. 4, for wages not paid in coin of the realm :—

*Held* : the hospital was a domestic establishment and the plaintiff was employed therein as a domestic servant. Although he had often performed tasks which a domestic servant ordinarily might not be able to do, everything which he did was for the upkeep of the establishment and for the convenience and comfort of those living in it. Since the Act does not apply to domestic servants, he was not, therefore, entitled to recover.—CAMERON *v.* ROYAL LONDON OPHTHALMIC HOSPITAL, [1940] 4 All E. R. 439 ; 57 T. L. R. 105 ; 84 Sol. Jo. 683. [833]

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## HOSPITAL STAFF

*See* HOSPITALS.

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## HOUSING

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## ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL . . . ADDING REGULATION . . .  
 . . . 68A . . . TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1940, No. 1134.

July 2, 1940

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11. After Regulation sixty-eight of the principal Regulations there shall be inserted the following Regulation :—

*“ Housing***68A. Reconditioning of housing accommodation for war workers.—**

(1) If, after consulting the War Agricultural Executive Committee set up by the Minister of Agriculture and Fisheries, the council of a county district are satisfied as respects the district—

- (a) that the influx into the district of persons engaged, or to be engaged, on agricultural work is such, or is likely to be such, that additional housing accommodation must be immediately provided ; and
- (b) that there are in the district unoccupied houses which, owing to the operation of subsection (3) of section one hundred and fifty-five of the Housing Act, 1936, cannot be re-occupied but some or all of which can be put into such a condition of cleanliness and repair as to be reasonably capable of being used, as a temporary war-time measure, for housing purposes without detriment to health,

the powers conferred by the subsequent provisions of this Regulation shall be exercisable with respect to the district by that council.

(2) Where the powers conferred by this paragraph have become exercisable by a council, the council may, if they are satisfied, with respect to any house in the district which owing to the operation of subsection (3) of the said section one hundred and fifty-five cannot be occupied, that any necessary steps have been taken to render the house reasonably capable of being used, as a temporary war-time measure, for housing purposes without detriment to health, grant to the person who would, but for the operation of the said subsection (3), be entitled to authorise the occupation of the house, a licence authorising the occupation thereof during the continuance of the licence by such number of persons of such class as may be specified in the licence, and on such terms as to the rent and other conditions on which the house is to be occupied as may be so specified, and the house may be occupied accordingly.

(3) Any such licence may be revoked at any time by the council granting the licence, and shall in any case cease to have effect at the expiration of such period (not exceeding six months from the granting thereof) as may be specified thereon.

(4) The reference in paragraph (2) of this Regulation to rent shall, in relation to an agricultural worker who is permitted to occupy the house in question by his employer, be construed as including a reference to any sum in respect of the occupation of the house which may be reckoned as payment of wages in lieu of payment in cash :

Provided that no such sum shall be reckoned as aforesaid unless it was fixed by the council with the concurrence of the Agricultural Wages Committee established under the Agricultural Wages (Regulation) Act, 1924.” **[834]**

ORDER IN COUNCIL ADDING REGULATION 68AA TO  
THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1940, No. 1684

*September 19, 1940*

At the Court of Buckingham Palace, the 19th day of September, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered that after Regulation sixty-eight A of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

**68AA. "Reconditioning of housing accommodation for homeless persons.**—If the council of a county borough, metropolitan borough or county district are satisfied as respects the borough or district—

- (a) that there are or are likely to be within the borough or district such number of persons who have been rendered homeless as a direct or indirect consequence of enemy action that additional housing accommodation must be immediately provided ; and
- (b) that there are in the borough or district unoccupied houses which, owing to the operation of subsection (3) of section one hundred and fifty-five of the Housing Act, 1936, cannot be re-occupied but some or all of which can be put into such a condition of cleanliness and repair as to be reasonably capable of being used, as a temporary war-time measure, for housing purposes without detriment to health ;

the powers conferred by paragraphs (2) and (3) of the last preceding Regulation shall be exercisable with respect to the borough or district by that council as if references therein to the district were references to the borough or district, as the case may be :

Provided that the said powers shall not be exercisable by virtue of this Regulation by any council with respect to their borough or district without the consent of the Minister of Health." [835]

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## HOUSING REVENUE ACCOUNT

*Circular 2008**April 26, 1940*

SIR,—I am directed by the Minister of Health to refer to Section 130 (2) of the Housing Act, 1936, in accordance with which it will now be necessary to consider disposal of balances which have accrued in the Housing Revenue Account during the quinquennial period ended the 31st March, 1940.

The Minister anticipates that, bearing in mind the need at the present juncture to conserve existing housing resources as far as possible, Local Authorities will, in the main, desire that such balances should be retained in the Housing Revenue Account and be carried forward to the next quinquennium. With a view to causing the minimum trouble to all concerned during the present pressure of work arising out of the war emergency, he hereby agrees that proposals to that effect need not in normal cases be submitted formally, but that his consent may be assumed provided that the necessary resolution is passed by the Council. The Minister appreciates, however, that in a few cases where the surplus is exceptionally large, the Local Authority may consider that distribution of some part thereof between the Minister and the Rate Fund would be desirable and in that event suitable proposals should be submitted for his consideration.

As in the special circumstances already mentioned authorities will in general be free to carry forward surpluses in the Housing Revenue Account at the 31st March, 1940, the Minister does not anticipate it should normally be necessary on this occasion for Authorities to seek to use the power under Section 130 (2) to transfer any part of a surplus to the Housing Repairs Account.

The maintenance of the balance in the Housing Repairs Account at a satisfactory level can best be effected by regulating the annual credit under the normal provisions of the Act, the percentage transfer from the Housing Revenue Account referred to in Section 131 being of course subject to increase at the discretion of the Authority. In determining the sum to be so transferred, however, the Authority will no doubt review the relative needs of repairs proper as opposed to other contingencies (*e.g.* "voids," etc.) bearing in mind that such other contingencies cannot, of course, be met out of Repairs Account money. Such a review might in some instances lead the Authority to the conclusion that a sufficient reserve has already been provided and that some reduction in the normal annual credit would be desirable in future; in that event the Minister would be prepared to consider the issue of suitable direction under Section 131 (3) on the matter being brought to his notice.

An additional copy of this Circular is enclosed for the use of the Financial Officer of the Authority. [836]

I am, Sir, etc.

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## SMALL DWELLINGS ACQUISITION ACTS

## . HOUSING ACT, 1936—SECTION 91

*Circular 1839**August 1, 1939*

SIR,—I am directed by the Minister of Health to refer to the Orders in Council recently made under the Military Training Act, 1939, and the Reserve and Auxiliary Forces Act, 1939, respectively, for the protection of the civil liabilities of persons called out for service under those Acts, and in particular to Article 3 of each Order, in which provision is made for the postponement of the repayments of advances made by building societies which fall due during such periods of service.

It has been suggested that there will be cases in which repayments of advances made by local authorities under the Small Dwellings Acquisition Acts, or Section 91 of the Housing Act, 1936, will fall to be repaid by such persons during their periods of service, and that to avoid hardship it would be desirable to include a similar provision in respect of advances made under the Small Dwellings Acquisition Acts or Section 91 of the Housing Act, 1936. This point has been noted for consideration in connection with any amending Orders which it may be found necessary to make. In the meantime, the Minister is confident that local authorities will not wish persons during their periods of service as persons called out, to whom advances have been made under these Acts, to receive less favourable treatment than those who have borrowed from building societies. He recommends, therefore, that local authorities should adopt the procedure indicated in the following paragraph.

In the case of loans under Section 91 of the Housing Act, 1936, and loans under the Small Dwellings Acquisition Acts in which a postponement of instalments can be permitted without infringing the maximum period (30 years) fixed by the Acts, the procedure indicated in Article 3 of the Orders should be followed. In other cases, that is, where a loan has been made under the Small Dwellings Acquisition Acts for the maximum period, or for a period which would prevent the postponement of instalments until the end of the period, the local authority should, if borrowers who are called out for service ask for postponement, agree that the instalments falling due during their periods of service should be postponed, and arrange for their repayment to be spread over a reasonable period.

An additional copy of the Circular is forwarded for the use of the Financial Officer of the Authority. [837]

I am, Sir, etc.

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## CASES

*Interference—Demolition of Adjoining House by Corporation in Pursuance of Clearance Order—Liability of Corporation—Housing Act, 1936 (c. 51), s. 26.*

Appellant corporation intimated to respondent that they intended to demolish certain property included in a clearance scheme, owing to the failure of the owner to demolish the same. Respondent, the legal owner of an adjoining house, was entitled to a right of support for that house from the property ordered to be demolished. The corporation claimed that, as they were performing a statutory duty, they were entitled to disregard the rights of an adjoining owner and to demolish the property comprised in the clearance area without providing equivalent support for respondent's house :—

*Held* : on the true construction of the Act, the corporation, in demolishing the property in pursuance of their statutory powers, had power to demolish it only because the owner of the property had failed to do so, and they were in the same position as the owner, and, therefore, under an obligation to provide equivalent support for respondent's house.—Decision of Simonds, J. affirmed.—*BOND v. NORMAN, BOND v. NOTTINGHAM CORPORATION*, [1940] Ch. 429 ; [1940] 2 All E. R. 12 ; 109 L. J. Ch. 220 ; 163 L. T. 253 ; 104 J. P. 219 ; 56 T. L. R. 475 ; 84 Sol. Jo. 233 ; 38 L. G. R. 209, C. A. [838]

*Repair—Undertaking Implied by Statute—Rent not Exceeding £40 per Annum—Whether Inclusive or Exclusive Rent—Housing Act, 1936 (c. 51), s. 2.*

A part of a house was let to respondent at 17s. 6d. per week. The corresponding annual net rent would have been £45 10s. The landlord paid all rates and taxes, which admittedly were more than £5 10s. Respondent sublet one room to plaintiff who was injured by a fall of the ceiling in that room. Plaintiff brought an action to recover damages, and respondent's landlord was added as a third party. The appeal raised the question as to whether or not this was a letting at a rent not exceeding £50 *per annum* within the Housing Act, 1936, s. 2 :—

*Held* : the word “rent” in the Housing Act, 1936, s. 2, does not mean the net rent, but means the actual contractual rent paid by a tenant to his landlord, irrespective of whether the rates are paid by the landlord or by the tenant.—Decision of Atkinson, J. reversed.—*ROUSOU v. PHOTI*, [1940] 2 K. B. 379 ; [1940] 2 All E. R. 528 ; 109 L. J. K. B. 693 ; 163 L. T. 71 ; 56 T. L. R. 685 ; 84 Sol. Jo. 488 ; 38 L. G. R. 364, C. A. [839]

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## INFANTS, CHILDREN AND YOUNG PERSONS

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### ORDERS, CIRCULARS AND MEMORANDA

#### CHILDREN AND YOUNG PERSONS (CONTRIBUTIONS BY LOCAL AUTHORITIES) REGULATIONS, 1940

*S. R. & O.*, 1940, No. 222

*February 16, 1940*

1. In pursuance of the powers conferred upon me by section 90 of the Children and Young Persons Act, 1933, I, the Right Honourable Sir John Anderson, one of His Majesty's Principal Secretaries of State, hereby prescribe contributions at the rate of nineteen shillings a week as the contributions to be made by the local authority named in an approved school order to the expenses of the managers of an approved school throughout the time during which the person to whom the order relates is under the care of the said managers and not out on licence or under supervision. [840]

2. These Regulations shall not apply to a local authority named in an approved school order where the managers having under their care the person to whom the order relates are the local authority, whether as local education authority for elementary education or otherwise, or are a joint committee upon which the local authority, whether as local education authority for elementary education or otherwise, are represented. [841]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [842]

4. (i) These Regulations may be cited as the Children and Young Persons (Contributions by Local Authorities) Regulations, 1940.

(ii) These Regulations shall come into force on the 1st April, 1940.

(iii) The Children and Young Persons (Contributions by Local Authorities) Regulations, 1939, are hereby revoked. [843]

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## ADOPTION OF CHILDREN (REGULATION) ACT, 1939

*Circular 823,375/8**December 30, 1939*

SIR,—I am directed by the Secretary of State to inform you that the coming into operation of this Act (with the exception of section 8) has been postponed by the Postponement of Enactments (Miscellaneous Provisions) Act, 1939, until such date as His Majesty may, by Order in Council, appoint. Until further notice, therefore, the councils of counties and of county boroughs are relieved of the duty of registering adoption societies. Similarly welfare authorities\* are relieved until further notice of the duty of supervising certain adopted children under section 7 of the Act.

As regards section 8 which amends the Adoption of Children Act, 1926, I am to enclose herewith, for your information, a copy of the circular addressed to Clerks to Justices on the changes made by section 8 in the law relating to adoption; a copy has also been sent to the education authorities. [844]

I am, Sir, etc.

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**INSANITARY HOUSES**
*See HOUSING.*


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**INTEREST**
*See FINANCE.*


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**LAND, ACQUISITION, SALE, ETC., OF**

ORDERS, CIRCULARS AND MEMORANDA :—

PAGE

London Government (Form of Mortgages and Transfers) Regulations, 1940— 287

**ORDERS, CIRCULARS AND MEMORANDA****LONDON GOVERNMENT (FORM OF MORTGAGES AND TRANSFERS) REGULATIONS, 1940***S. R. & O., 1940, No. 133**January 23, 1940*

102676.

Whereas by section 128 of the London Government Act, 1939 (hereinafter referred to as "the Act") it is enacted that subject as

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\* A welfare authority is defined in the Act as meaning a welfare authority for the purposes of Part VII of the Public Health Act, 1936. As regards the administrative county of London the functions conferred by section 7 on welfare authorities are to be performed by the London County Council.

therein provided a mortgage created by a metropolitan borough council under Part VII of that Act must be made by deed in the prescribed form or in a form to the like effect ;

And whereas by section 129 of the Act it is enacted that the person entitled to a mortgage created by a metropolitan borough council may transfer it by deed in the prescribed form or in a form to the like effect :

Now therefore the Minister of Health in pursuance of the powers conferred on him by the above recited sections and of all other powers enabling him in that behalf hereby makes the following regulations :—

1. These regulations may be cited as the London Government (Form of Mortgages and Transfers) Regulations, 1940, and shall come into operation on the date hereof. [845]

2. The forms of mortgage and transfer of mortgage set out in the schedule to these regulations are the forms prescribed for the purposes of the above recited sections. [846]

### SCHEDULE

#### FORM NO. 1

#### *Form of Mortgage*

By virtue of the London Government Act, 1939, and of other their powers in that behalf them enabling the Mayor Aldermen and Councillors of the Metropolitan Borough of (hereinafter referred to as "the Council") being a borough council within the meaning of that Act in consideration of the sum of pounds (hereinafter referred to as "the principal sum") paid to the treasurer of the Council by (hereinafter referred to as "the Mortgagee") [the receipt of which sum is hereby acknowledged] hereby grant and assign unto the Mortgagee [his] executors administrators and assigns such proportion of the revenues of the Council as the principal sum bears or will bear to the whole sum which is or will be charged on the said revenues To Hold unto the Mortgagee [his] executors administrators and assigns from the date of these presents until the principal sum shall be fully paid and satisfied with interest thereon at the rate of per centum [such interest to be paid (*state intervals at which interest is to be paid*) on the in each year].

[And it is hereby agreed that the principal sum together with the interest accrued thereon shall be repaid at (*state place and method of repayment*).]

[Provided always and it is hereby agreed and declared that the before-mentioned time for repayment may be extended to such later date or dates and upon any such extension the before-mentioned rate of interest may be altered to such other rate or rates of interest as may from time to time be agreed between the Council and the Mortgagee and stated in an endorsement to be made hereon under the hands of the Mortgagee and the Town Clerk for the time being and that upon any such endorsement being made the provisions stated therein shall be incorporated herewith and shall take effect as though they had been originally inserted herein.]

[Provided also and it is hereby agreed and declared that the Council may with the consent of the Mortgagee pay and the Mortgagee may receive any principal money intended to be hereby secured at any earlier time than the time or respective times hereinbefore appointed for payment thereof and upon any such special repayment the before-mentioned time for repayment may be reduced to such earlier date or dates and the before-mentioned rate of interest may be altered to such other rate or rates of interest as may from time to time be agreed between the Council and the Mortgagee and stated in an endorsement to be made hereon under the hands of the Mortgagee

and the Town Clerk for the time being and that upon any such endorsement being made the provisions stated therein shall be incorporated herewith and shall take effect as though they had been originally inserted herein.]

In witness whereof the Council have caused their common seal to be hereunto affixed this                      day of                      nineteen hundred and                      .

## FORM No. 2

*Form of Transfer of Mortgage*

I [the within-named]                      of  
in consideration of the sum of                      pounds paid to me by  
of                      (hereinafter referred to as "the trans-  
feree") do hereby transfer to the transferee [his] executors administrators  
and assigns [the within-written security] [the mortgage number                      of  
the revenues of the Mayor Aldermen and Councillors of the Metropolitan  
Borough of                      bearing date the                      day of                      ]  
[created for the purpose of securing the repayment of the sum of  
with interest] and all my right and interest under the same subject to the  
several conditions on which I hold the same at the time of the execution  
hereof and I the transferee for myself my executors administrators and  
assigns do hereby agree to take the said mortgage security subject to the  
same conditions.

Dated this                      day of                      nineteen hundred and  
[847]

\*                      \*                      \*                      \*                      \*

## LAND DRAINAGE

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## STATUTES

### THE AGRICULTURE (MISCELLANEOUS WAR PROVISIONS) ACT, 1940

(3 & 4 GEO. 6, c. 14)

*March 21, 1940*

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## PART III

## LAND DRAINAGE

**14. Drainage of outlying land.**—(1) Where the War Agricultural Executive Committee for a county or county borough consider that any agricultural land within the county or borough, but not within any drainage district other than a catchment area, is capable of improvement by the execution of drainage works, they may request the Catchment Board for any catchment area wholly or partly within the county or borough to prepare and carry out a scheme for draining the land.

(2) After receiving such a request as respects any land, the Catchment Board may prepare a scheme for draining the land, if they are of opinion—

- (a) that the cost of preparing and carrying out the scheme will not exceed an amount equal to five pounds for each acre of the land; and
- (b) that the value of the land for agricultural purposes will be increased in consequence of the carrying out of the scheme:

Provided that—

- (i) no scheme under this section shall provide for the drainage of land outside the catchment area of the Board except with the consent of the Catchment Board for the area in which the land is situated or, in a case where the land is not situated in a catchment area, the council of the county or county borough in which the land is situated; and
- (ii) no scheme under this section shall provide for the execution of works on or in connection with the main river of any catchment area.

(3) The provisions of the Fifth Schedule to this Act shall have effect with respect to the contents and approval by the Minister of a scheme under this section (in that Schedule referred to as a “scheme”), and to the notices to be given in relation thereto.

(4) Where a scheme prepared by a Catchment Board under this section has been approved by the Minister—

- (a) the Catchment Board may execute any works specified in the scheme, and for that purpose shall, whether or not the land

comprised in the area of the scheme is comprised in the area of the Board, have all the powers which they have by virtue of the Land Drainage Act, 1930, in relation to the main river ; and

- (b) the owner of any land comprised in the area of the scheme shall be liable to pay to the Board, within one month after the date of a demand made in writing by the Board, the amount apportioned under the scheme to that land of the net cost of the scheme :

Provided that an owner by whom any amount is so payable may, by notice in writing served on the Board within the said one month, elect to pay the said amount, together with interest thereon from the said date, by such number of equal annual instalments, not exceeding five, as may be specified in the notice, so however that—

- (i) the first such instalment shall be payable within one year from the said date ; and

- (ii) the rate of interest shall, in default of agreement between the owner and the Board, be fixed by the Minister.

(5) Any sum payable to a Catchment Board under the last foregoing subsection—

- (a) may be recovered by the Board summarily as a civil debt ; and

(b) shall be a charge on the land in respect of which it is payable ; and the Board shall, for the purposes of enforcing any such charge, have the same powers and remedies under the Law of Property Act, 1925, and otherwise as they would have if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

(6) Where, on the termination of the tenancy of a holding within the meaning of the Agricultural Holdings Act, 1923, in respect of which any sum has been paid or is payable to a Catchment Board by virtue of a scheme under this section, the landlord proves to the satisfaction of an arbitrator appointed under that Act that any works executed in pursuance of the scheme were rendered necessary by the neglect of the tenant to comply with any obligation relating to the maintenance or repair of a watercourse imposed on him by virtue of the contract of tenancy, the arbitrator shall award to the landlord compensation equal to so much of the net cost of the scheme as was attributable to the execution of those works :

Provided that, where any agreement is made between the landlord and the tenant of such a holding as aforesaid for the payment by the tenant of any contribution in respect of the sum paid or payable as aforesaid, that contribution shall be recoverable from the tenant in lieu of compensation under this subsection.

For the purpose of any arbitration under this subsection, a certificate by the Catchment Board that such part of the net cost of the scheme as may be specified in the certificate was attributable to the execution of works so specified shall be conclusive evidence of that fact.

(7) The Minister may, out of moneys provided by Parliament, make towards expenditure incurred by Catchment Boards in preparing and carrying out schemes approved by him under this section grants of such amounts and subject to such conditions as may be approved by the Treasury.

(8) Where the whole or any part of the area of a scheme prepared by a Catchment Board and approved by the Minister under this section is comprised in another catchment area, the Board shall be entitled to recover from the Catchment Board for the last mentioned area, in respect of their expenditure in preparing and carrying out the scheme so far as that expenditure is not met otherwise under this section, such sum as may be determined by agreement between those Boards or, in default of agreement, by the Minister.

(9) For the purposes of this section—

- (a) the expression “the area of the scheme” means, in relation to any scheme, the area of the land set out in the scheme as being the land to be drained in pursuance of the scheme; and
- (b) the expression “net cost” means, in relation to any scheme, such expenditure as is certified by the Minister to have been incurred by a Catchment Board in preparing and carrying out the scheme less the amount of any grant made by the Minister towards that expenditure.

(10) The provisions of this section shall have effect notwithstanding anything in any award made under any enactment. [848]

Part III, which by s. 22 (2) is to be construed with the Land Drainage Act, 1930 (23 Statutes 529), deals with land drainage, enables the war agricultural executive committees to request Catchment Boards to prepare schemes for draining land, and gives increased powers to county and borough councils as well as to drainage boards.

It also provides for the making of grants to individuals in respect of mole drainage. Under s. 3 of the Agricultural Holdings Act, 1923 (1 Statutes 81) a tenant after giving certain notice to his landlord can execute drainage works and on quitting the farm receive compensation for the improvement on the basis of the value of the improvement to an incoming tenant.

“War Agricultural Executive Committee” is defined in s. 30, *post*;

“agricultural land” is defined in s. 22, *post*, and in s. 29 of the Land Drainage Act, 1930 (12 Statutes 550);

“the Catchment Board” is defined in s. 3 of the Land Drainage Act, 1930

“the Minister” is defined in s. 81 of the Land Drainage Act, 1930.

The powers and remedies of mortgagees under the Law of Property Act, 1925 (15 Statutes 177) are contained in ss. 99, 100 and 101 of that Act.

**15. Mole drainage.**—(1) Where a scheme for the drainage of any agricultural land by the process known as mole drainage—

- (a) has been submitted by the owner or occupier of the land to the War Agricultural Executive Committee for the county or county borough in which the land is situated; and
- (b) has been approved by that Committee for the purposes of this section;

the Minister may, out of moneys provided by Parliament, make, towards the expenditure incurred by any person in carrying out the scheme, grants of such amounts and subject to such conditions as the Treasury may approve.

(2) In assessing the amount of any compensation payable to a tenant of agricultural land, whether under the Agricultural Holdings Act, 1923, or under custom or agreement, by reason of the improvement of the land by mole drainage works in respect of which a grant has been made under this section, the grant shall be taken into account as if it had been a benefit allowed to the tenant in consideration of his executing the improvement, and the compensation shall be reduced accordingly.

[849]

In this system of drainage a drain is formed by what is known as a mole plough consisting of a round plug attached to a coulter and drawn by steam power, a tractor,

or horse windlass. In certain classes of soil which are free from stones this kind of drainage will work well if the operation is carried out when the soil is in the right condition. A drain of this kind is necessarily shallow and is only suitable for pasture land, and is used chiefly in the Eastern counties. It usually does not remain effective for more than six or eight years.

By s. 1 (1) of the Agriculture (Miscellaneous War Provisions) (No. 2) Act, 1940 (*post*), a new subsection is substituted for sub-s. (1) of this section. The provisions are not now limited to "mole drainage", but extend to any scheme for the field drainage of any agricultural land or for the cleansing or other improvement of ditches on any such land, and the words "by that committee" are added at the end of para. (b).

As to sub-s. (2), see s. 1 (2) of the No. 2 Act, *post*.

"Agricultural land" is defined in s. 22, *post*, and "War Agricultural Executive Committee" and "owner" in s. 30, *post*; "the Minister" is defined in s. 81 of the Land Drainage Act, 1930 (23 Statutes 582) and "drainage" in s. 81 of that Act.

For the matters that are to be set out in the scheme, see Schedule V, *post*. A tenant also must be careful to give such notice to his landlord of his intention to drain as is required by s. 3 of the Agricultural Holdings Act, 1923 (1 Statutes 81).

**16. Powers over dams.**—(1) Where the Minister is satisfied by a drainage board that it is necessary or expedient so to do for the purpose of preventing or arresting injury to any agricultural land, he may authorise the board to repair, maintain, alter or remove any dam within the district of the board.

(2) A drainage board shall be liable to make compensation to any person for any loss sustained by him by reason of the exercise by the board of any powers conferred on them under this section :

Provided that no compensation shall be payable in respect of any dam if the whole or any part thereof has been erected in contravention of any enactment.

(3) If any question arises whether compensation is payable under this section, or as to the amount of any such compensation it shall, in default of agreement, be determined by an official arbitrator under the Acquisition of Land (Assessment of Compensation) Act, 1919.

(4) There shall be paid out of moneys provided by Parliament any increase attributable to the passing of this section in the grants that are authorised to be so paid by section fifty-five of the Land Drainage Act, 1930, or section fifteen of the Agricultural Act, 1937.

### [850]

For the Acquisition of Land (Assessment of Compensation) Act, 1919, see 2 Statutes 1176 ; see also the Acquisition of Land (Assessment of Compensation) Rules, 1919, dated 2nd December, 1919 (S. R. & O., 1919, No. 1836/L.30).

Compensation is payable under subsection (2) for loss sustained in connection with the powers given by this section, but the very comprehensive wording of the proviso to the subsection should be noted.

**17. Control of sluices.**—(1) Where a drainage board are of opinion that it is necessary or expedient so to do for the purpose of preventing or arresting injury to any agricultural land, they may, by notice in writing served on the occupier or person in control of any dam within their district, require him, during such times and in such manner as may be specified in the notice, to keep open or closed any sluice forming part of the dam :

Provided that—

(a) no such notice shall require anything to be done before the expiration of forty-eight hours from the service of the notice unless it is stated in the notice that in the opinion of the board immediate action is necessary to meet an emergency ;

(b) in exercising their powers under this section in relation to any sluice, the board shall have regard to any purpose for

which the occupier or person in control of the dam or any other person interested in the water controlled by the sluice uses or desires to use the water so controlled and shall so exercise the said powers as to interfere as little as may be practicable with such user ;

- (c) a drainage board shall not exercise the powers conferred by this section in relation to any sluice which is vested in or controlled by a local authority or a navigation, harbour or conservancy authority or any undertakers authorised by or under any enactment to supply water or electricity ; and
- (d) a Catchment Board shall not exercise the powers conferred by this section in relation to any sluice which is vested in or controlled by an internal drainage board.

(2) If any notice served by a drainage board as aforesaid with respect to any sluice is not complied with—

- (a) the person on whom it is served shall be guilty of an offence under this Part of this Act ; and
- (b) without prejudice to any prosecution for such an offence, the board may, after giving notice in writing to that person, take control of the sluice for such period as may be specified in the last mentioned notice ; and
- (c) if during that period any person operates the sluice without the authority of the board, he shall be guilty of an offence under this Part of this Act.

(3) In this section the expression “ sluice ” means a mechanical appliance by means of which the flow of water is capable of being regulated. [851]

“ Agricultural land ” and “ dam ” are defined in s. 22, *post*.

**18. Powers of entry.**—(1) Any person authorised in writing in that behalf by a drainage board may, on production of his authority if so required, enter upon any land within the district of the board—

- (a) for the purpose of exercising in relation to agricultural land any powers conferred on them by or under the Land Drainage Act, 1930, or by or under this Part of this Act ;
- (b) for the purpose of seeing whether a notice served in pursuance of any such power is being complied with.

(2) Any person authorised in writing in that behalf by the Minister may, on production of his authority if so required, enter upon any land—

- (a) for the purpose of seeing—

- (i) whether it is expedient, for the purpose of draining agricultural land, to execute any works in respect of which the Minister is authorised, whether under this Part of this Act or any other enactment, to make a grant out of moneys provided by Parliament ; or

- (ii) whether any such works are being or have been properly executed ; or

- (b) for the purpose of exercising any power conferred on the Minister by this Part of this Act. [852]

Though a power of entry is given by this section on to any land, yet the entry must be in relation to “ agricultural land ” as defined in s. 22, *post*, and see note to that section.

"The Minister" referred to in this section is the Minister of Agriculture and Fisheries. See s. 81 of the Land Drainage Act, 1930 (23 Statutes 582), which Act is to be construed (s. 22 (2), *post*) with Part III.

**19. Powers of local authorities.**—The council of any county or county borough shall, in relation to any area within the county or borough and not within a drainage district, have all the powers conferred on drainage boards by the last three foregoing sections, and accordingly those sections shall have effect as if—

- (a) any reference therein to a drainage board included a reference to any such council ; and
- (b) any reference therein to a district of a drainage board included a reference to so much of a county or county borough as is not comprised in a drainage district. [853]

See in connection with the powers here given to local authorities, s. 17, *ante*.

It is to be noted that neither urban district councils nor rural district councils are given any powers under this section.

**20. Extension of powers of Catchment Boards as respects maintenance of watercourses.**—As respects any agricultural land within a catchment area but not within an internal drainage district, the powers conferred on the council of the county or county borough within which the land is situated by section thirty-five and subsection (2) of section fifty of the Land Drainage Act, 1930 (which enable the council to require a person in default to put a watercourse in proper order) shall, during the war period, be exercisable by the Catchment Board for that area as well as by that council. [854]

**21. Obstruction and penalties.**—(1) If any person obstructs or impedes any person in the exercise of any powers conferred on him by or under this Part of this Act, he shall be guilty of an offence under this Part of this Act.

(2) Any person guilty of any offence under this Part of this Act shall be liable—

- (a) on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine ; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine. [855]

**22. Interpretation, construction, citation and duration of Part III.**—

(1) In this Part of this Act—

- (a) the expression "agricultural land" has the meaning assigned to it by section twenty-nine of the Land Drainage Act, 1930, for the purposes of Part IV of that Act ;
- (b) the expression "dam" includes a lock, weir or other structure affecting the flow of water in any watercourse.

(2) This Part of this Act shall be construed as one with the Land Drainage Act, 1930, and may be cited together with that Act as the Land Drainage Acts, 1930 and 1940.

(3) The powers conferred on any person by this Part of this Act shall be in addition to and not in derogation of any powers conferred upon him by the Land Drainage Act, 1930.

(4) No scheme shall be approved under this Part of this Act after the end of the war period, and the powers in relation to dams and sluices, and the powers of entry, conferred by this Part of this Act shall not be exercised after the end of that period. [856]

The powers conferred by Part III are additional to those given by the Land Drainage Act, 1930, but cease at the end of the "war period", which expression is defined in s. 30 (1) (c), *post*.

## PART IV

### MISCELLANEOUS AND GENERAL

\* \* \* \*

#### 30. Definitions.—(1) For the purposes of this Act—

- (a) the expression "owner", in relation to land, means the person who is receiving the rackrent of the land, whether on his own account or as agent or trustee for any other person, or who would so receive the rackrent of the land if it were let at a rackrent, and in this definition the expression "rackrent" has the same meaning as in the Public Health Act, 1936 ;
- (b) the expression "War Agricultural Executive Committee" means—
  - (i) in relation to a county, the committee for that county the members whereof are authorised to exercise as respects land in that county any powers of the Minister under regulations made under the Emergency Powers (Defence) Act, 1939 ; and
  - (ii) in relation to a county borough, the committee the members whereof are authorised to exercise within that borough any of the powers aforesaid ;
- (c) the expression "war period" means the period for which the Emergency Powers (Defence) Act, 1939, is in force. [857]

\* \* \* \*

#### 31. Application to Scotland. [858]

#### 32. Application to Northern Ireland. [859]

33. **Short title.**—This Act may be cited as the Agriculture (Miscellaneous War Provisions) Act, 1940. [860]

## SCHEDULES

\* \* \* \*

### FIFTH SCHEDULE

#### Section 14.

#### PROVISIONS AS TO CERTAIN DRAINAGE SCHEMES

##### 1. Every scheme shall set out—

- (a) the area of the land to be drained in pursuance of the scheme ;
- (b) a description of the works proposed to be executed in pursuance of the scheme ;
- (c) the estimated cost of preparing and carrying out the scheme ;

- (d) the amount of any grant which will, if the scheme is approved by the Minister, be made by him to the Catchment Board by whom the scheme was prepared (hereafter in this Schedule referred to as "the Board") towards the expenditure incurred by the Board in preparing and carrying out the scheme; and
- (e) the basis of apportionment, as between the lands comprised in the area of the scheme, of the net cost of the scheme. [861]

2. The Board shall give to the owners and occupiers of the land comprised in the area of the scheme notice of the making of the draft of the scheme, of the place where it can be inspected and of the time (which shall not be less than twenty-one days from the date of the notice) within which objections thereto may be made to the Board. [862]

3. After considering any objections duly made to the draft of a scheme and making any modifications therein which they think expedient having regard to any such objection, the Board may submit the scheme to the Minister for his approval. [863]

4. After considering any such objections which have not been withdrawn and making any modifications in the scheme as submitted to him which he thinks expedient having regard to any such objection, the Minister may approve the scheme. [864]

5. No land shall be included in the area of the scheme as approved by the Minister which was not included in the area of the scheme of which notice was given under paragraph 2 of this Schedule. [865]

6. If the scheme is not approved by the Minister, no further proceedings shall be taken thereon by the Board. [866]

7. If the scheme is approved by the Minister, the Board shall as soon as may be serve on the owners of land comprised in the area of the scheme a notice stating that the scheme has been approved, and every such notice shall contain a copy of the scheme. [867]

As to paras. 2-5, see Regulation 62c of the Defence (General) Regulations, *post*, under which, when a Catchment Board has prepared a scheme, a new para. is substituted for paras. 2-5.

## THE AGRICULTURE (MISCELLANEOUS WAR PROVISIONS) (NO. 2) ACT, 1940

(3 & 4 GEO. 6, c. 50)

### PRELIMINARY NOTE

This Act is designed to fill gaps and strengthen weak points which were discovered after a short experience of the working of the agricultural industry under war-time conditions since the passing of the Agriculture (Miscellaneous War Provisions) Act, 1940.

S. 1 extends the scheme of grants, hitherto payable only for mole drainage, to other forms of field drainage, which will include the widely used and efficient system of tile or stone drainage. Further, the payment of grants, hitherto made through drainage authorities, in respect of cleansing of ditches is to be assimilated to the procedure applicable to field drainage, so as to simplify and expedite the making of these grants, and, in consequence, the execution of the work, without which the actual field drainage system cannot be expected to operate effectively. The section also provides that a tenant shall receive compensation for such work, limited to his expenditure in excess of any grant under the Agricultural Holdings Act, 1923, in spite of failure to give the requisite notices to his landlord.

S. 2 enables the cost of conversion of grass ways over fen-land into hard roads or the drainage of such fen-land to be recovered from the owners

benefited, spread, if necessary, over a period of five years. Provision is made for the maintenance of such roads as well as drainage works by the drainage authority.

S. 3 removes a further obstacle to the development and use of agricultural land in certain districts by abolishing the power to recover from an occupier arrears of drainage rates accumulated prior to his occupation.

\* \* \* \* \*

*An Act to make certain amendments in the law relating to agriculture and agricultural land in connection with the present war.* [868]

(22nd August 1940.)

**1. Amendments as to drainage of agricultural land.**—(1) For subsection (1) of section fifteen of the Agriculture (Miscellaneous War Provisions) Act, 1940, there shall be substituted the following subsection—

“(1) Where a scheme for the field drainage of any agricultural land or for the cleansing or other improvement of ditches on any such land—

(a) has been submitted by the owner or occupier of the land to the War Agricultural Executive Committee for the county or county borough in which the land is situated; and

(b) has been approved for the purposes of this section by that Committee;

the Minister may, out of moneys provided by Parliament, make, towards expenditure incurred by any person in carrying out the scheme, grants of such amounts and subject to such conditions as the Treasury may approve”.

(2) Where an improvement of a holding by mole drainage works has been made by a tenant in pursuance of a direction given to him under or by virtue of Defence Regulations, compensation under the Agricultural Holdings Act, 1923, shall be payable in respect of the improvement, subject to the provisions of subsection (2) of section fifteen of the Agriculture (Miscellaneous War Provisions) Act, 1940, as to the taking into account of a grant made under that section, notwithstanding that the tenant has not given to the landlord such notice of his intention to execute the improvement as is mentioned in section three of the said Act of 1923, or that the improvement was begun within such a period or at such a time as is mentioned in section eight of that Act. [869]

S. 15 of the Agriculture (Miscellaneous War Provisions) Act, 1940, see p. 292, *ante*.

The subsection superseded by subsection 1 of the present section authorised grants only for mole drainage. This type of drainage is only suitable for heavy soils; land composed of lighter soils is incapable of retaining the mole drain. The subsection now substituted enables grants to be made not only for mole drainage, but for drainage by other methods, including the widely used but more expensive system of tile or stone drainage. The grants will be available for the reconditioning and improving of old drains as well as for the construction of new drains.

The subsection, by its reference to the “cleansing or other improvements of ditches” also enables the procedure for ditch clearing schemes to be assimilated to that in relation to field drainage, so that the whole question of agricultural drainage can be dealt with on the same basis. Although the subsection contemplates schemes “submitted by the owner or occupier”, this does not, of course, mean that the initiative of the owner or occupier is relied on entirely for the execution of drainage works. The war agricultural executive committees have powers under Reg. 62 of the Defence (General) Regulations, 1939, to procure the execution of such work, and in practice many schemes will no doubt be prepared as a result of pressure applied by the committees.

Sub-s. (2) protects a tenant who has been compelled to carry out drainage works by reason of a direction under the Defence (General) Regulations, 1939, from the consequences of failure to comply with the requirements of s. 3 of the Agricultural Holdings

Act, 1923 (1 Statutes 81) that notice of intention to execute improvements should be given to his landlord, but limits the compensation payable to the amount actually expended by the tenant himself over and above the Government grant.

**2. Improvement of grass ways over fen-lands.**—(1) Where work for the improvement of a way (not being a highway repairable by the inhabitants at large) over fen-land in an internal drainage district, or for the drainage of such fen-land, has been done under the authority of the Minister in the exercise of powers conferred by Defence Regulations, the following provisions of this section shall have effect as to—

- (a) the recovery from the owners of land the value of which for agricultural purposes will be increased by the doing of the work of the expenses reasonably incurred in connection therewith; and
- (b) the maintenance by the internal drainage board of the work done.

(2) A proportion of the said expenses shall be recoverable as a debt due to His Majesty from each such owner as aforesaid on whom a notice in writing requiring payment thereof is served by the Minister within one year from the completion of the work, and shall, without prejudice to any other mode for the recovery thereof, be recoverable by the Minister summarily as a civil debt.

(3) A notice served for the purposes of the last preceding subsection shall specify the sum which the owner on whom it is served is required to pay and the part of the land aforesaid in respect of which he is required to pay it, and that sum shall not exceed either of the following limits, that is to say—

- (a) the amount by which the value for agricultural purposes of the specified part of the land aforesaid will be increased by the doing of the work;
- (b) the same proportion of the said expenses as the amount aforesaid bears to the amount by which the value for agricultural purposes of all the land aforesaid will be increased by the doing of the work.

(4) Subject to the provisions of the two next succeeding subsections, the sum specified in such a notice shall become recoverable at the expiration of one month from the date of the service thereof.

(5) If an owner on whom such a notice is served claims that none of the land in his ownership will be increased in value for agricultural purposes by the doing of the work, or that the sum specified in the notice exceeds either of the limits mentioned in subsection (3) of this section, he may, by notice in writing served on the Minister at any time within the said month, require his claim to be referred for determination by a single arbitrator appointed by agreement between him and the Minister, or, in default of such agreement, by the President of the Chartered Surveyors' Institution and, if he does so, no sum shall be recoverable from him until his claim has been so determined, and—

- (a) if it is determined that none of the land in his ownership will be increased in value as aforesaid, no part of the said expenses shall be recoverable from him;
- (b) if it is determined that the sum specified exceeds either of the said limits, the sum recoverable from him shall be that sum less such amount as the arbitrator may determine to be requisite in order to bring it within those limits.

(6) An owner on whom a notice for the purposes of subsection (2) of this section is served may, by notice in writing served on the Minister at any time within the said month, or, if he has claimed a reference under the last preceding subsection, at any time within fourteen days from the date on which his claim has been determined, elect to pay any sum recoverable from him under this section, together with interest thereon from the date on which that amount would otherwise have become recoverable from him, by such number of equal annual instalments, not exceeding five, as may be specified in his notice :

Provided that—

- (a) the first instalment shall be payable within one year from the last mentioned date ; and
- (b) the rate of interest shall, in default of agreement between the owner and the Minister, be fixed by the Treasury.

(7) Any amount recoverable under the preceding provisions of this section shall be a charge on the land specified in the relevant notice served for the purposes of subsection (2) of this section, and the Minister shall, for the purpose of enforcing the charge, have the same powers and remedies under the Law of Property Act, 1925, and otherwise as he would have if he were a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases, and of appointing a receiver.

(8) The Minister may, at any time after the completion of the work, make an order requiring the internal drainage board of the internal drainage district in which the land over which the way runs, or the land comprising the drainage works, as the case may be, is situated to maintain the work done, and, where such an order is made, it shall be the duty of the board to maintain the work unless and until the requirement is revoked by a subsequent order made by the Minister.

(9) Any question as to whether the internal drainage board have failed to perform a duty imposed upon them under the last preceding subsection shall be decided by the Minister, and the Minister may, if he is satisfied that they have so failed, give such directions to the board as he thinks fit as to the steps to be taken to remedy the failure, and compliance with any such directions shall be enforceable, on the application of the Minister, by mandamus.

(10) Notwithstanding anything in subsection (2) of section twenty-four of the Land Drainage Act, 1930, a rate raised by the internal drainage board for the purpose of defraying expenses incurred in connection with the maintenance of the work shall be an owners' drainage rate.

(11) In determining for the purposes of this section whether, and the amount by which, the value for agricultural purposes of any land will be increased by the doing of the work, due regard shall be had to the provisions of the three last preceding subsections.

(12) A notice to be served for the purposes of this section may be served in any manner specified in section seventy-five of the Land Drainage Act, 1930, in relation to notices required or authorised to be served under or by virtue of that Act.

(13) In this section—

the expressions "drainage", "internal drainage district" and "internal drainage board" have the meanings assigned to

them respectively by section eighty-one of the Land Drainage Act, 1930 ;

the expression "fen-land" shall be construed generally and not as limited to land in that part of England commonly known as "the Fens"; and

the expression "owner", in relation to land, means the person who is receiving the rackrent of the land, whether on his own account or as agent or trustee for any other person, or who would so receive the rackrent of the land if it were let at a rackrent, and in this definition the expression "rackrent" has the same meaning as in the Public Health Act, 1936. [870]

The object of this section is to assist the exploitation of the food-producing capacity of fen-land (which is not confined to the part usually known as "the Fens"). Fen-land districts include large tracts of potentially fertile land which have hitherto not been used to produce crops they are capable of growing, such as potatoes and beet, and in some cases have not even been used for grazing, partly because the only roads giving access to the land are grass roads, unusable for a considerable part of the year and even in dry weather unsuitable for motor transport, and partly on account of lack of drainage.

These two hindrances to development are attacked by the present section in conjunction with the Defence (General) Regulations, 1939. Under Reg. 50 of those Regulations the construction of proper roads is among the work which may be done by a competent authority, and the section deals with the recovery of the cost from the owners benefited by the work. The charge is to be on the increased value of the land, irrespective of the actual cost of the work, but cannot in any event be greater in the aggregate than the actual cost.

In view of the provision for spreading the cost of the roads at the option of the owners of the land over a period of years it is obvious that for the scheme to work in the manner contemplated the roads will have to be constructed to last, otherwise the recovery of the cost is likely to be difficult.

The close connection between the provision of these roads and land drainage is emphasised by the vesting in drainage boards instead of highway authorities of the functions of maintenance.

The Land Drainage Act, 1930 (23 Statutes 529), s. 24 (2), provides that a rate made by a drainage board may be either an owner's drainage rate or an occupier's drainage rate, the latter rate being for the purpose of defraying expenses or charges other than in connection with new works or improvements, or in respect of contributions to a Catchment Board.

S. 75 provides that a notice required or authorised to be served under or by virtue of the Act may be served by registered post by or delivery to or at the residence of the person to whom it is addressed or, where addressed to the owner or occupier of premises, by delivery of the notice or a copy thereof to some person on the premises or, if there is no person on the premises to whom the notice or copy can be delivered, by fixing the notice or copy on some conspicuous part of the premises.

S. 81 of the Act contains the following definitions :—

" 'Drainage', except in the phrase 'any enactments relating to the drainage of land' includes defence against water, irrigation, warping and the supply of water ".

" 'Internal drainage district' means a district within a catchment area or, in the case of a drainage district situate partly within and partly without a catchment area, so much thereof as is situate within the catchment area ".

" 'Internal drainage board' means the drainage board of an internal drainage district ".

The Public Health Act, 1936, s. 343 (29 Statutes 538) defines "rackrent" in relation to any property as "a rent which is not less than two-thirds of the rent at which the property might reasonably be expected to let from year to year, free from all usual tenant's rates and taxes, and tithe rentcharge (if any), and deducting therefrom the probable average annual cost of the repairs, insurance and other expenses (if any) necessary to maintain the same in a state to commend such rent ".

**3. Restriction of remedies conferred by local Acts for recovery of drainage rates.**—Notwithstanding anything in any local Act, or in subsection (5) of section thirty-one of the Land Drainage Act, 1930 (which contains a saving for the powers conferred by any local Act in relation to arrears of drainage rates), no distress for arrears of any rate made under the said Act of 1930 shall be levied after the commencement of this Act on the goods or chattels of any person other than a person from whom the arrears may be recovered by virtue of subsection (1) of the said section thirty-one, and no proceedings, whether

by action or otherwise, for the enforcement of any charge on land for securing payment of arrears of any such rate created by any local Act shall be commenced after the commencement of this Act. [871]

For s. 31 (5) of the Land Drainage Act, 1930, see 23 Statutes 552.

The object of this section is to remedy the anomalous position arising in some districts where rating powers remained under old Acts enabling rates to be claimed from the present occupier and not merely from the person who occupied the land when the liability arose. As a result of this position land has actually been allowed to become derelict, the liability for accumulated arrears of rates being so great that nobody would occupy it.

\* \* \* \* \*

**10. Short title, interpretation, and extent.**—(1) This Act may be cited as the Agriculture (Miscellaneous War Provisions) (No. 2) Act, 1940. [872]

(2) In this Act the expression “the Minister” means the Minister of Agriculture and Fisheries, and the expression “Defence Regulations” means Regulations made under the Emergency Powers (Defence) Acts, 1939 and 1940.

(3) Sections one to three of this Act shall not extend to Scotland.

(4) This Act, except section six thereof, shall not extend to Northern Ireland.

## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL . . . ADDING REGULATION . . . 62C TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1134*

*July 2, 1940*

\* \* \* \* \*

**10.** After Regulation sixty-two B of the principal Regulations there shall be inserted the following Regulation :—

**62c. “Land drainage.**—(1) The proviso to subsection (3) of section four of the Land Drainage Act, 1930 (which provides that orders confirming schemes under paragraph (b) of subsection (1) of that section, if opposed, shall be provisional only and shall not have effect until confirmed by Parliament), shall, as respects any order made during the continuance in force of this Regulation, have effect only if the result of the scheme as confirmed by the order is to include within an internal drainage district land which would otherwise not be within any internal drainage district.

(2) So much of subsection (3) of section eighteen of the said Act as provides that an order under Part III of that Act shall, if opposed, be provisional only and have no effect until confirmed by Parliament shall, as respects any order made during the continuance in force of this Regulation, have effect only if the result of the order is to include within a drainage district land which would otherwise not be within any drainage district.

(3) The functions of a drainage board as respects the doing of any work are not to be treated as in any way limited by the fact that some other person is under an obligation, by reason of tenure, custom, prescription or otherwise, to do that work.

(4) The Fifth Schedule to the Agriculture (Miscellaneous War Provisions) Act, 1940, shall, in relation to any scheme prepared by a Catchment Board during the continuance in force of this Regulation, have effect as if for paragraphs 2 to 5 thereof there were substituted the following paragraph—

‘ 2. When the Board has prepared the scheme, they may submit it to the Minister for his approval, and he may approve it either without modification or with any modifications which he considers expedient.’

(5) Expressions used in this Regulation have the same meanings as in the Land Drainage Act, 1930.” [873]

\* \* \* \* \*

## ORDER IN COUNCIL . . . AMENDING REGULATION 62C OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1968*

*November 8, 1940*

\* \* \* \* \*

4. After paragraph (2) of Regulation sixty-two C of the principal Regulations, there shall be inserted the following paragraphs :—

“(2A) The proviso to section eleven of the said Act (which provides that an order under that section, if opposed, shall be provisional only and shall not have effect until confirmed by Parliament) shall not have effect as respects any order made during the continuance in force of this Regulation.

(2B) During the continuance in force of this Regulation section thirty-five of the said Act shall have effect with the omission in subsections (1) and (2) of that section of the words ‘ belonging to or in the occupation of some other person.’

(2C) The powers conferred by the said section thirty-five on drainage boards other than Catchment Boards shall be exercisable also by Catchment Boards, and accordingly—

(a) during the continuance in force of this Regulation subsection (2) of that section shall have effect with the omission of the words ‘ not being a Catchment Board,’ and

(b) section twenty of the Agriculture (Miscellaneous War Provisions) Act, 1940, shall have effect only as respects any notice served by virtue thereof before the coming into operation of this paragraph.” [874]

\* \* \* \* \*

**DRAINAGE AUTHORITIES (EXTENSION OF TERM OF OFFICE) ORDER, 1940**

*S. R. & O., 1940, No. 1940*

*May 20, 1940*

At the Court at Buckingham Palace, the 20th day of May, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas application has been made on behalf of the following drainage boards constituted under the Land Drainage Act, 1930—

The Acle Marshes Drainage Board  
The River Crimble Internal Drainage Board  
The Louth Drainage Board  
The Lower Bure Internal Drainage Board  
The Powysland Internal Drainage Board  
The Snow Sewer Drainage Board

and also on behalf of the Hesketh Flood Defence Commissioners, praying that His Majesty may be graciously pleased to make an Order in Council with respect to those boards and those Commissioners under sections two and four of the Chartered and Other Bodies (Temporary Provisions) Act, 1939 :

Now, therefore, His Majesty in exercise of the powers conferred on Him by the said sections two and four of the said Act and of all other powers enabling Him in that behalf is pleased, by and with the advice of His Privy Council to order, and it is hereby ordered as follows :—

1.—(1) The term of office of the members of the said drainage boards who held office on the thirty-first day of October, nineteen hundred and thirty-nine, shall extend to the first day of November, nineteen hundred and forty, and the triennial elections of members of the said boards under the Land Drainage Act, 1930, shall be postponed accordingly, and shall be held so as to enable the new members of the said boards to come into office on the first day of November, nineteen hundred and forty.

(2) The provisions of the said Act enabling or requiring a member of a drainage board to resign or vacate his office before the expiration of his term of office shall apply in relation to the extended term of office of the members of the said boards, and the provisions of the said Act and of the rules made thereunder shall apply to the said postponed elections in like manner as they apply to elections held at the times appointed by the said Act. [875]

2.—(1) The term of office of the Hesketh Flood Defence Commissioners who held office on the thirty-first day of December, nineteen hundred and thirty-nine, shall extend to the first day of January, nineteen hundred and forty-one, and accordingly the triennial election of Commissioners under the Hesketh Estate (Flood Defences) Act, 1914, shall be postponed to the first day of January, nineteen hundred and forty-one.

(2) The provisions of the said Act shall apply to the said postponed election in like manner as they apply to elections held at the times appointed by the said Act, and the Commissioners elected at that election shall hold office until the next election held in accordance with the said Act on the first day of January, nineteen hundred and forty-three. [876]

3.—(1) This Order may be cited as the Drainage Authorities (Extension of Term of Office) Order, 1940.

(2) This Order shall have effect as from the first day of September, nineteen hundred and thirty-nine. [877]

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## DRAINAGE AUTHORITIES (EXTENSION OF TERM OF OFFICE) (NO. 2) ORDER, 1940

*S. R. & O., 1940, No. 1741*

*September 27, 1940*

At the Court at Buckingham Palace, the 27th day of September, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas by the Drainage Authorities (Extension of Term of Office) Order, 1940, provision was made under sections two and four of the Chartered and Other Bodies (Temporary Provisions) Act, 1939, with respect to :—

The Acle Marshes Drainage Board,  
The River Crimpe Internal Drainage Board,  
The Louth Drainage Board,  
The Lower Bure Internal Drainage Board,  
The Powysland Internal Drainage Board,  
The Snow Sewer Drainage Board,  
The Hesketh Flood Defence Commissioners :

And whereas application has been made on behalf of the said Boards (other than the Acle Marshes Drainage Board and the Powysland Internal Drainage Board) and of the said Commissioners praying that His Majesty may be graciously pleased to make further provision under those sections with respect to the said Boards (other than as aforesaid) and to the said Commissioners ;

Now, therefore, His Majesty, in exercise of the powers conferred on Him by the said sections two and four of the said Act and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council to order, and it is hereby ordered as follows :—

1.—(1) Article 1 of the Drainage Authorities (Extension of Term of Office) Order, 1940, shall have effect in relation to the said Boards (other than the Acle Marshes Drainage Board and the Powysland Internal Drainage Board) with the substitution for references to the

first day of November, nineteen hundred and forty, of references to the first day of November, nineteen hundred and forty-one.

(2) Article 2 of the said Order shall have effect with the substitution for references to the first day of January, nineteen hundred and forty-one, of references to the first day of January, nineteen hundred and forty-two. [878]

2. This Order may be cited as the Drainage Authorities (Extension of Term of Office) (No. 2) Order, 1940. [879]

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## DRAINAGE AUTHORITIES (EXTENSION OF TERM OF OFFICE) (NO. 3) ORDER, 1940

*S. R. & O., 1940, No. 1742*

*September 27, 1940*

At the Court at Buckingham Palace, the 27th day of September, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas application has been made on behalf of the following Drainage Boards, that is to say—

Ashfields,  
Bedale,  
Cod Beck,  
Churchfield and Plawfield,  
Deeping Fen, Spalding and Pinchbeck,  
Glassmoor and Mereside,  
Laneham,  
Marston Moor,  
Messingham,  
Middle Bure,  
Muckfleet and South Flegg,  
Newark,  
Pilling and Winmarleigh,  
Ramsey, Upwood and Great Raveley,  
River Crossens,  
Rye,  
Snettisham,  
Southwell,  
Upper Bure,  
Upper Yare and Tas,  
Westside Marshes,

praying that His Majesty may be graciously pleased to make an Order in Council with respect to those Boards under sections two and four of the Chartered and Other Bodies (Temporary Provisions) Act, 1939 :

And whereas each of the said Boards, other than the Upper Bure Drainage Board, was constituted under the Land Drainage Act, 1930,

and the Upper Bure Drainage Board was constituted under the Land Drainage Act, 1918, by the Upper Bure Drainage Order, 1930 :

Now, therefore, His Majesty, in exercise of the powers conferred on Him by the said sections two and four of the said Act and of all other powers enabling Him in that behalf, is pleased by and with the advice of His Privy Council to order and it is hereby ordered, as follows :—

1.—(1) The term of office of the members of each of the said Boards (other than the Glassmoor and Mereside Internal Drainage Board and the Upper Bure Drainage Board) who hold office on the thirty-first day of October, nineteen hundred and forty, and the term of office of the members of the Glassmoor and Mereside Internal Drainage Board who held office on the thirty-first day of October, nineteen hundred and thirty-nine, shall extend to the first day of November, nineteen hundred and forty-one, and the triennial elections of members of each of the said Boards (other than the Upper Bure Drainage Board) under the Land Drainage Act, 1930, shall be postponed accordingly, and shall be held so as to enable the new members of those Boards respectively to come into office on the first day of November, nineteen hundred and forty-one.

(2) The provisions of the Land Drainage Act, 1930, enabling or requiring a member of a drainage board to resign or vacate his office before the expiration of his term of office shall apply in relation to the extended term of office of the members of the said Boards, and the provisions of that Act and of the rules made thereunder shall apply to the said postponed elections in like manner as they apply to elections held at the times appointed by that Act. [880]

2.—(1) The term of office of the members of the Upper Bure Drainage Board who held office on the fourth day of September, nineteen hundred and forty, shall extend to the third day of September, nineteen hundred and forty-one, and the triennial election of members of the said Board under the Upper Bure Drainage Order, 1930, shall be postponed accordingly, and shall be held so as to enable the new members of the said Board to come into office on the fourth day of September, nineteen hundred and forty-one.

(2) The provisions of the Land Drainage Act, 1930, and of the said Order which relate to the termination of the membership of a member of the said Board shall apply in relation to the extended term of office of the members of the said Board, and the provisions of that Act and of the said Order shall apply to the said postponed election in like manner as they apply to an election held at the time when it is required by virtue of the said Act and of the said Order to be held. [881]

3.—(1) This Order may be cited as the Drainage Authorities (Extension of Term of Office) (No. 3) Order, 1940.

(2) This Order shall have effect as from the first day of September nineteen hundred and thirty-nine. [882]

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## LAND DRAINAGE GRANTS (POSTPONEMENT OF PRESCRIBED DATE) ORDER, 1940

*S. R. & O.*, 1940, No. 820

*April 11, 1940*

Whereas subsection (3) of Section 15 of the Agriculture Act, 1937, provides that grants shall not be made under that section towards any expenditure incurred by an authority after the prescribed date which subject as thereafter provided shall be the thirty-first day of July, nineteen hundred and forty.

And whereas the same subsection provides that the prescribed date may be postponed for not more than two successive periods of one year each by Orders made by the Minister with the consent of the Treasury and confirmed by a resolution of each House of Parliament.

Now therefore the Minister of Agriculture and Fisheries being the Minister within the meaning of the said Act hereby with the consent of the Treasury makes the following Order :—

1. The said prescribed date is hereby postponed for the period of one year and shall be the thirty-first day of July, nineteen hundred and forty-one. [883]

2. This Order may be cited as the Land Drainage Grants (Postponement of Prescribed Date) Order, 1940. [884]

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## CASES

*Catchment Board—River-wall—Duty to Repair—Liability for Misfeasance—Negligent repair—Land Drainage Act, 1930 (c. 44), s. 34.*

Respondents were the owners of land protected by a wall from inundation by a tidal river. At a time when the height of a spring flood tide was increased by a northerly gale, the wall partly collapsed, leaving a breach 20 ft. to 30 ft. wide. As a result, the respondents' lands were flooded. The appellants, the catchment board for the area in which those lands were situated, attempted to repair the breach by running a dam straight across it. It was proved that this method of repair was impracticable and that the correct method was to construct a V-shaped dam. It was also proved that the appellants had attempted the work with an insufficient number of men :—

*Held* : (LORD ATKIN *dissenting*) : since the damage done by flooding was not due to the exercise of the appellants' statutory powers, but to the forces of nature, which appellants were endeavouring to counteract, they were under no liability to the respondents. Where a statutory authority are entrusted with a mere power, they cannot be made liable for any damage sustained by a member of the public by reason of a failure to exercise that power. If, in the exercise of their discretion, they embark upon an execution of the power, the only duty they owe to any member of the public is not thereby to add to

the damage which he would have suffered had they done nothing. So long as they exercise their discretion honestly, it is for them to determine the method by which, and the time within which, and the time during which, the power shall be exercised, and they cannot be made liable for any damage which would have been avoided had they exercised their discretion in a more reasonable way.—*EAST SUFFOLK RIVERS CATCHMENT BOARD v. KENT*, [1940] 4 All E. R. 527, H. L., reversing, S.C. *sub. nom. KENT AND PORTER v. EAST SUFFOLK RIVERS CATCHMENT BOARD*, [1940] 1 K. B. 319; [1939] 4 All E. R. 174, C. A. [885]

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## LOCAL LOANS

*See FINANCE.*

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## LOCAL TAXATION LICENCES

*See MOTOR LICENCES.*

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## LONDON

STATUTES :—		PAGE	CASES :—		PAGE
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## STATUTES

### THE LONDON COUNTY COUNCIL (GENERAL POWERS) ACT, 1940

(3 & 4 GEO. 6, c. xv)

*An Act to confer powers upon the London County Council and other authorities and for other Purposes.* [886] (22nd May 1940.)

Whereas by virtue of the Act 35 Henry VIII chapter 10 the mayor and commonalty and citizens of the city of London (hereinafter referred to as "the corporation") possess for purposes of water supply certain rights and interests with respect to ponds situate on the lands vested in the London County Council (hereinafter referred to as "the Council") and now known as Hampstead Heath Parliament Hill and Ken Wood and to the water in such ponds :

And whereas such water is no longer required or used for purposes of water supply and it has been agreed between the Council and the corporation that the estate and interest of the corporation in or in connection with the said ponds and the water therein shall be transferred to the Council :

And whereas it is expedient that effect should be given to the said agreement as provided by this Act :

And whereas it is expedient that the other provisions contained in this Act for the good government of the administrative county of London should be enacted :

And whereas it is expedient that the other provisions contained in this Act should be enacted :

And whereas the objects aforesaid cannot be attained without the authority of Parliament :

May it therefore please Your Majesty, etc. [887]

**1. Short title.**—This Act may be cited as the London County Council (General Powers) Act, 1940. [888]

**2. Interpretation.**—(1) In this Act except as otherwise expressly provided or unless the subject or context otherwise requires—

“ the Council ” means the London County Council ;

“ borough ” means a metropolitan borough ;

“ the Wandsworth Council ” means the council of the borough of Wandsworth ; and

“ the standing joint committee ” means the standing joint committee of the court of quarter sessions for the county of London and the Council appointed in pursuance of subsection (1) of section 30 of the Local Government Act, 1888.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Act. [889]

For s. 30 (1) of L.G.A., 1888, see 10 Statutes 708.

**3. Transfer to Council of interests of City Corporation in certain ponds.**—(1) In this section “ the corporation ” means the mayor and commonalty and citizens of the city of London acting by the mayor aldermen and commons of the said city in common council assembled.

(2) As from the passing of this Act all the estate and interest of the corporation in or in connection with any ponds on the lands vested in the Council and known as Hampstead Heath Parliament Hill and Ken Wood and the water in such ponds shall by virtue of this Act be transferred to and vest in the Council and the Act 35 Henry VIII chapter 10 shall cease to have effect in so far as it relates to those lands.

(3) Section 43 (For protection of New River ponds, etc.) of the Hampstead Heath Act, 1871, is hereby repealed. [890]

35 Hen. VIII, c. 10 is not printed in Halsbury's Statutes, or in the Statutes at Large. The Act authorised the Mayor and Commonalty of London to repair decayed conduits and lay new ones, and to fetch water from Hampstead Heath in consideration of a pound of pepper.

**4. Power of Council to contract for production of a work of art.**—The provisions of section 157 (Acquisition of buildings for works of art, etc.) of the London Government Act, 1939, shall extend to enable the Council from time to time to enter into and carry into effect a contract for the production of a work of art and for the purchase by the Council of the work when completed. [891]

For s. 157 of the London Government Act, 1939, see 32 Statutes 332.

**5. Extension of time for compulsory purchase of land.**—The time limited by the London Council (General Powers) Act, 1937, for the compulsory purchase by the Council of—

- (a) lands in the borough of Lambeth for the purposes of paragraph (c) of subsection (1) of section 5 (Power to Council to take lands) of that Act ; and
- (b) lands in the borough of Stoke Newington for the purposes of paragraph (d) of subsection (1) of the said section 5 ; and
- (c) lands and premises in the city of Westminster for the purposes of section 6 (Power to Council to acquire and transfer certain lands) of the said Act of 1937 ;

is hereby extended until the first day of October one thousand nine hundred and forty-two. [892]

**6. Extension of time for completion of works.**—The time limited by the London County Council (General Powers) Act, 1935, for the completion of the new street in the borough of Lambeth described in and authorised by section 25 (Power to Council to construct new street) of that Act is hereby extended until the first day of October one thousand nine hundred and forty-four. [893]

**7. Employment of certain persons by standing joint committee.**—  
(1) The standing joint committee may appoint and employ such officers and servants as are requisite for the purpose of assisting the clerk appointed in pursuance of section 25 of the Valuation (Metropolis) Act, 1869, in the performance of his duties as such clerk.

(2) The salaries or wages and emoluments of all such officers and servants as are referred to in this section shall be paid out of the county fund.

(3) As respects any person employed by the standing joint committee under subsection (1) of this section the Council may if they think fit upon and subject to such terms and conditions as they may determine treat the service of that person with any such clerk as is referred to in section 25 of the said Act of 1869 as part of the service of that person in respect whereof the Council may confer superannuation and other benefits similar to those conferred by any scheme made in pursuance of the provisions of Part IV (Superannuation, etc.) of the London Council (General Powers) Act, 1891. [894]

For s. 25 of the Valuation (Metropolis) Act, 1869, see 14 Statutes 560. That section authorises the justices in assessment to appoint a clerk and other persons to assist them in their duties. By L.G.A., 1888, s. 42 (10), the quarter sessions for the County of London was substituted for the general assessment sessions.

**8. Contributions to superannuation fund by officers of Wandsworth Council.**—(1) Section 9 (Increase of rate of contributions by officers) of the Wandsworth Borough Council (Superannuation) Act, 1924, shall not apply to an officer of the Wandsworth Council who is appointed as such after the passing of this Act and the following provision shall as from the passing of this Act be substituted for subsection (1) of section 11 (Scale of contributions) of the Wandsworth Borough Council (Superannuation) Act, 1909, in the case of any such officer (namely) :—

“(1) The percentage amounts to be deducted for the purposes of this Act shall be six per centum of the annual salary or wages and emoluments.”

(2) In their application to an officer to whom subsection (1) of this section applies the provisions of subsection (2) of section 114 (Amendment of section 7 of Act of 1924) of the London County Council (General Powers) Act, 1937, shall have effect as if for the reference therein to section 9 of the Wandsworth Borough Council (Superannuation) Act, 1924, there were substituted a reference to subsection (1) of this section.

(3) Nothing in this section shall prejudicially affect the provisions of the Wandsworth Borough Council (Superannuation) Scheme, 1938.

(4) This section shall be read and construed as one with the Wandsworth Borough Council (Superannuation) Acts, 1909 to 1937 and those Acts and this section may be cited together as the Wandsworth Borough Council (Superannuation) Acts, 1909 to 1940. [895]

**9. Appointment of instructors and organisers at open spaces.**—For the removal of doubts it is hereby declared that the power conferred on a local authority by subsection (2) of section 42 (Facilities for public recreation) of the London County Council (General Powers) Act, 1935, to employ persons in connection with the exercise of their powers under the said section includes and shall be deemed always to have included a power to employ persons as instructors or organisers in connection with the use or enjoyment of any of the facilities provided and maintained under paragraph (a) of subsection (1) of the said section. [896]

**10. Costs of Act.**—All costs and expenses of the Council in the execution of this Act shall be defrayed as payments for general or special county purposes within the meaning of the London Government Act, 1939, as they may decide and the costs charges and expenses preliminary to and of and incidental to the preparing applying for and obtaining of this Act shall be defrayed by them in like manner.

Provided that so much of the last-mentioned costs charges and expenses as may be incurred in respect of or in connection with the provisions contained in—

(i) paragraph (c) of section 5 (Extension of time for compulsory purchase of land); and

(ii) section 8 (Contributions to superannuation fund by officers of Wandsworth Council);

shall unless otherwise agreed be paid as regards (i) by the court of the University of London and as regards (ii) by the Wandsworth Council. [897]

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## CASES

*Imposing Conditions on Employees—Employees of Public Authority accorded Right of Representation by Union Officials—Right of Employees to be represented by Official of Other Union—Condition of Employment with regard to Membership of Union—Trade Disputes and Trade Unions Act, 1927 (c. 22), s. 6.*

The defendants had by clause 3 of the schedule of the contract of employment given their employees the right to be accompanied by a representative of trade union A at the hearing of appeals in respect of

disciplinary action against such employees. The plaintiff, an employee of the defendants, was a member of trade union B, and he claimed a declaration that "the condition of his employment whereby he was denied . . . the advantage of representation by an official of his own trade union [trade union B] was unlawful." On his behalf, it was contended that the denial by the defendants of the right of their employees to be represented by officials of a union other than union A was a "condition" within the Trade Disputes and Trade Unions Act, 1927, s. 6 (1), and, as such, was void by virtue of s. 6 (3) of that Act. On behalf of the defendants, it was contended, not only that they had not imposed any condition upon the plaintiff, but also that, on the contrary, the plaintiff was attempting to impose a condition upon them, the defendants, in seeking to compel them to admit representatives of trade union B to the hearing of disciplinary appeals :—

*Held* : clause 3 of the schedule of the contract of employment constituted a condition of the employment, and was void by reason of the Trade Disputes and Trade Unions Act, 1927, s. 6.

Decision of MORTON, J. ([1940] 3 All E. R. 225) reversed.—MOSCROP v. LONDON PASSENGER TRANSPORT BOARD, [1940] 4 All E. R. 281 ; 57 T. L. R. 93 ; 84 Sol. Jo. 703, C. A. [898]

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## LONDON ROADS AND TRAFFIC

*See* LONDON.

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## MARINE STORE DEALER

*See* REGULATED INDUSTRIES, TRADES AND BUSINESSES.

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## MATERNITY AND CHILD WELFARE

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### ORDERS, CIRCULARS AND MEMORANDA

#### SUDDEN BIRTH IN AIR-RAID SHELTERS

*Circular 2091*

*July 12, 1940*

SIR,—1. I am directed by the Minister of Health to refer to Home Security Circular No. 115/1940 of the 3rd June, 1940, regarding the arrangements to be made for dealing with women in labour in public

air-raid shelters, and to the letter on this subject which was addressed by the Minister's Chief Medical Officer on the same date to the Medical Officers of Health of scheme-making Authorities. [899]

2. The Minister has given consideration to the basis upon which payment should be made to a doctor or midwife who is summoned to attend at an air-raid shelter under the arrangements set out in those communications, and after consultation with the British Medical Association he has decided, in the case of medical practitioners, to apply the arrangements which have been adopted for the remuneration of doctors at first-aid posts and to authorise payment of a sessional fee of one and a half guineas for doctors who are summoned in the circumstances stated and who remain in attendance upon women in labour. [900]

3. Where a midwife is summoned to attend a woman in labour, the Minister will approve the payment of a fee of £1 1s. in respect of her services. [901]

4. It will, of course, be appreciated that no question of a fee will arise where the doctor who attends at an air-raid shelter is a whole-time officer of the local authority or the Emergency Medical Service of the Ministry, or where the services of a whole-time municipal midwife are utilised. Where the doctor is under contract with the local authority to render service at a first-aid post attendance at an air-raid shelter should be treated as service at a first-aid post for the purpose of payment of fees under the arrangements set out in paragraph 10 of Circular 1869. [902]

5. Paragraph 13 of Circular 1869 should be read as applying to the sessional fees payable in accordance with this Circular. [903]

I am, Sir, etc.

## SUPPLY OF MILK TO MOTHERS AND CHILDREN

*Circular 2053*

*June 19, 1940*

SIR,—I am directed by the Minister of Health to refer to Circular 1840 of 2nd August, 1939, and to the announcement by the Minister of Food in the House of Lords on the 12th instant with regard to milk price policy and the supply of milk at reduced rates to mothers and young children. As your Council is no doubt aware from that announcement, in view of the imminent rise in the price of liquid milk and at the same time of the importance of securing the widest possible consumption of milk by these classes the Minister of Food has decided as a measure of wartime food policy to institute a national scheme for the supply of milk either free or cheap to all expectant and nursing mothers and children under five years of age. The scheme will come into operation on 1st July or as soon as practicable after that date. Under the scheme one pint of liquid milk (or in special circumstances for children under one year of age an equivalent amount of dried milk) will be supplied daily to each member of these classes on whose behalf proper application

is made. The price to be paid will normally be 2*d.* a pint, and milk at this price will be available to all mothers and young children. A free supply will be made if the joint income of the parents falls below 40*s.* per week together with 6*s.* for each non-earning dependant. The whole cost of the scheme, including administrative costs, will be borne by the Exchequer.

This scheme will entirely supersede the arrangements made by the Milk Marketing Board and approved by the Minister of Agriculture and Fisheries on 26th July, 1939, and set out in Circular 1840 of 2nd August. As from 1st August supply of milk under those arrangements will cease, and no rebate under them will be paid by the Milk Marketing Board in respect of milk supplied after 31st July. The Minister expects that in general the Welfare Authorities will think it unnecessary to continue other arrangements made by them for the supply of milk to mothers and children. The powers of Welfare Authorities in this respect are, however, in no way affected by the scheme, and it will be open to your Council to arrange independently to supplement the provision made under the scheme in cases where such a course appears desirable on medical grounds.

The Minister understands that, after full consultation with the representatives of Local Authorities, the Minister of Food has decided to entrust the administration of the new scheme to specially appointed Divisional Milk Officers and Milk Officers attached respectively to the Divisional and Local Food Offices. It is clear that in many instances the past experience and records of the Welfare Authority may be of the greatest assistance to the Milk Officer, and that they and their officers will be able to render valuable help for example in making application forms available to possible applicants (*e.g.* at clinics, at welfare centres, and through Health Visitors) and in completing any necessary certificates in respect of expectant mothers, or of children under one year for whom dried milk is desirable on medical grounds. The Minister is confident that, in view of the importance of the scheme to the health of mothers and young children, your Council will readily make available the services both of their premises and of their officers to the fullest possible extent for the assistance of the Milk Officer in the administration of the scheme.

With regard to those Authorities which have arrangements for supply of milk in accordance with the terms of Circular 1840 either in operation or in course of preparation, it may be that they will have clerical staff which becomes redundant as a result of the new scheme. I am to suggest that any such Authorities should also assist the local Food Executive Officer by enabling him to make contact with redundant staff which has experience of administration of milk schemes.

Copies of the Circular are enclosed for the information of the Medical Officer of Health and Finance Officer of the Council. [904]

I am, Sir, etc.

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## SUPPLY OF MILK TO MOTHERS AND CHILDREN

*Circular 2089*

July 11, 1940

SIR,—I am directed by the Minister of Health to refer to Circular 2053 of 19th June, 1940, and to state that he understands from the Minister of Food that it will not be practicable to bring into operation for some weeks to come, the arrangements for supplying dried milk for infants under one year under the Ministry of Food national milk scheme. The Minister is confident that Welfare Authorities now supplying dried milk share his view that it is desirable that the supply of an amount of dried milk equal to one pint of liquid milk per day under their maternity and child welfare arrangements to infants under one year should not cease until supplies of dried milk are available for them under the national scheme. He would, therefore, be glad if those Authorities would continue supply in accordance with their present arrangements until such time as they are satisfied by enquiry from the Milk Officer that supplies of dried milk are so available, which he understands will be not later than 1st September.

A copy of the Circular is enclosed for the information of the Medical Officer of Health. [905]

I am, Sir, etc.

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## MATERNITY AND CHILD WELFARE—EVACUATION

*Circular 1998*

April 19, 1940

SIR,—I am directed by the Minister of Health to refer to Circular 1882 of 2nd October, 1939 (paragraphs 22–25), in which Welfare Authorities in evacuating and receiving areas were requested to co-operate in making available to mothers and young children evacuated under the Government Scheme the welfare services already provided for those resident in receiving areas. The Minister appreciates the manner in which Welfare Authorities generally have responded to this request. In view of the enquiries he has received it appears to him, however, that Authorities might welcome a further expression of his views on the financial arrangements which should be adopted in carrying out this part of their work.

In the Minister's view, the aim of Welfare Authorities in receiving areas should be to bring within the scope of their services all mothers and young children in their area, whether evacuated under the Government Scheme or privately. The services provided should include not only health visiting and the facilities made available at clinics or centres, but also the other forms of assistance normally given as part of the maternity and child welfare arrangements, such as the provision of milk and meals, dental treatment, etc. Where the assistance given is governed by the financial circumstances of the family, the income scales applied by the Authority to residents should be applied also to

those evacuated to their area, and payment should be made by the recipients or costs recovered from them accordingly. The Minister is of opinion that payments of this kind can most conveniently be recovered by the Welfare Authority in the receiving area. He is, however, confident that where necessary the Authorities in evacuation areas will be prepared to assist in assessing the family circumstances in order to ascertain the payments which recipients should make, or to undertake by agreement with the receiving authority, the collection of any sums due.

With regard to the method of meeting the additional expenditure incurred by Welfare Authorities in receiving areas in extending their services to evacuated mothers and young children, the Minister takes the view that Welfare Authorities in evacuation areas should in the first instance meet expenditure incurred in providing services for persons normally resident in their area. As already stated, the provision of these services for mothers and young children evacuated, whether privately or under the Government Scheme, is a matter for close co-operation between Welfare Authorities in evacuation and receiving areas, and the Minister is aware that in many instances that co-operation has been forthcoming, *e.g.* by the loan of staff, equipment, etc. This co-operation on the part of Welfare Authorities in evacuation areas should in his opinion extend also to meeting expenditure incurred on providing services for evacuated persons through the agency of Welfare Authorities in receiving areas. Where, therefore, services are provided, the cost of which is readily attributable to evacuees, the Welfare Authority in the receiving areas should claim reimbursement of the net expenditure (*i.e.* less any payments made by recipients) from the Welfare Authority of the area in which the evacuee is normally resident. The Minister appreciates that certain expenditure of a general nature may not be readily attributable in this way; and he will be prepared to recognise for grant as an evacuation charge (in claims put forward by authorities in reception areas) net additional expenditure of that nature reasonably incurred by Welfare Authorities in those areas in providing services for expectant and nursing mothers and young children evacuated under the Government Scheme. Similarly he will be prepared to recognise for grant (in claims put forward by authorities in evacuation areas) any sums paid by Welfare Authorities in evacuation areas to Authorities in receiving areas in respect of services rendered to persons evacuated under the Government Scheme which can be shown to be additional to the expenditure which would have been incurred by those Authorities if evacuation had not taken place.

Reference should also be made to expenditure incurred by Authorities in receiving areas in connection with the provision of special institutions for persons evacuated under the Government Scheme such as emergency maternity accommodation and mothers' hostels, and any *new* institutions such as residential and day nurseries which have had to be set up in addition to institutions already existing in the reception area or evacuated to it from other areas. In the Minister's view expenditure of this nature cannot conveniently be included in any claims for reimbursement made by Authorities in receiving areas on Authorities in evacuation areas, and any question of adjustments between Welfare Authorities in evacuation areas and the Exchequer, must form part of any financial adjustment which may be required in the circumstances and for the reason indicated in paragraph 10 of Circular 1800 dated 1st May, 1939. It should therefore be met in the first place by reception

Authorities and (less any sums recovered in accordance with paragraphs 36 and 37 of Circular 1882 from the persons accommodated in such institutions) included in their claims for grant as evacuation expenditure. The Minister would, however, see no objection to an arrangement by which the evacuating authority by agreement with the receiving authority undertook the assessment, or if necessary the collection of any sums from the persons accommodated in such institutions or from others responsible for them.

A copy of the Circular is enclosed for the Finance Officer and a copy has also been sent to the Medical Officer of Health. [906]

I am, Sir, etc.

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## MEDICAL OFFICER OF HEALTH

ORDERS, CIRCULARS AND MEMORANDA:—

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### ORDERS, CIRCULARS AND MEMORANDA

#### ANNUAL REPORTS OF MEDICAL OFFICERS OF HEALTH

*Circular 1937*

*January 11, 1940*

SIR,—1. I am directed by the Minister of Health to refer to Circular 1745 of the 31st October, 1938, and to say that he has had under consideration the scope of the Annual Reports to be made by Medical Officers of Health of Port Health and Riparian Authorities during the present emergency. [907]

2. Having regard to the desirability of reducing the number of records to be kept and of avoiding as far as possible the disclosure of information relating to the movements of ships, the Minister desires that the requirements set out in Memo. 204/S.A. shall be modified as follows during the period of the emergency :—

- (a) The letterpress of the report should consist of short notes on any points of special importance.
- (b) The following alterations should be made as regards the tables mentioned in the Memorandum :—

*Table A.*—Omit the first three columns (description, number and tonnage of ships) and give only totals for the other columns.

*Table B.*—Omit.

*Tables C and D.*—Omit last column.

*Tables E and F.*—Reduce in each case to a statement for the whole year of the numbers of rats (without reference to species), (a) destroyed ; (b) examined ; and (c) found to be infected with plague.

*Table G.*—Include only where applicable.

*Table H.*—Omit column 1 and give only totals for the other columns.

- (c) The section relating to food inspection should comprise a brief statement of the action taken under the Public Health (Imported Food) Regulations 1937, the Public Health (Preservatives, etc., in Food) Regulations, 1925 to 1939, the Public Health (Imported Milk) Regulations, 1926, and the Public Health (Shellfish) Regulations, 1934. [908]

3. Any permanent arrangements which have been fully described in previous Annual Reports and have not been altered may be omitted from the Report for 1939. [909]

4. The Minister suggests that the report should not be published, a small number of copies being reproduced for the necessary minimum circulation to the Authority and their officers and to the Ministry. It will suffice if two copies are sent to the Ministry instead of the three asked for in Memo. 204/S.A. [910]

5. A copy of this Circular is being sent to the Medical Officer of Health. [911]

I am, Sir, etc.

The Clerk to the Authority.

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## MENTAL HOSPITAL

*See PERSONS OF UNSOUND MIND.*

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## METROPOLITAN POLICE

*See POLICE.*

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## MIDWIVES

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## ORDERS, CIRCULARS AND MEMORANDA

### MEDICAL PRACTITIONERS (FEES) REGULATIONS, 1940

*S. R. & O., 1940, No. 602*

*April 22, 1940*

102852.

The Minister of Health in pursuance of his powers under subsection (1) of section 9 of the Midwives Act, 1936, and all other powers

enabling him in that behalf hereby makes the following regulations, that is to say :—

1. These regulations may be cited as the Medical Practitioners (Fees) Regulations, 1940, and shall come into operation on the first day of June, 1940. [912]

2. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [913]

3. The scale of fees set out in the first schedule hereto is fixed as the scale of fees payable to medical practitioners under subsection (1) of section 14 of the Midwives Act, 1918. [914]

4. The conditions subject to which fees are to be payable to medical practitioners under the said subsection are as follows :—

- (a) The medical practitioner shall not have agreed to attend the patient under arrangement made by or on behalf of the patient or by any club, medical institute or other association, of which the patient or her husband is a member ;
- (b) The medical practitioner shall not be under an obligation to give the treatment to the patient under the National Health Insurance Acts, 1936 to 1938, or by virtue of any office held by him under a local authority or under the terms of any agreement made between him and a local authority ;
- (c) The medical practitioner shall not receive or agree to receive a fee from the patient or her representative :
- (d) Fees shall not be payable—
  - (i) in respect of any services performed by the medical practitioner later than the fourteenth day after his first attendance, except where he has reported to the local supervising authority before the expiration of the said fourteenth day that he considers, for reasons stated in writing that his further attendance is necessary :
  - (ii) in respect of any services performed by the medical practitioner after the expiration of four weeks from the birth :
- (e) The fees set out in paragraphs (i), (iii) and (iv) of the first schedule to these regulations shall not be payable unless at the conclusion of his attendances a report in the form set out in the second schedule to these regulations shall have been furnished by the medical practitioner to the medical officer of health of the local supervising authority. [915]

5. The Medical Practitioners (Fees) Regulations, 1936, are hereby revoked, but without prejudice to anything duly done or suffered or to any right privilege obligation or liability acquired accrued or incurred thereunder. [916]

6. These regulations shall not extend to Scotland or Northern Ireland. [917]

## FIRST SCHEDULE

## SCALE OF FEES FOR MEDICAL PRACTITIONERS CALLED IN BY MIDWIVES

(i) Fee for all attendances of a medical practitioner at any time from the commencement of labour until the child is born, whether or not operative assistance is involved, including all subsequent visits to mother and/or child during the first fourteen days inclusive of the day of birth, £3 3s. Provided that where only one attendance is made in the period from the commencement of labour until the child is born and the practitioner is not present at the birth or subsequently a fee of £2 2s. shall be payable in lieu of the fee of £3 3s. aforesaid.

(ii) Fee for attendance of a second medical practitioner to give an anaesthetic, whether on the occurrence of abortion or miscarriage, at parturition or subsequently, £1 1s.

(iii) Fee for all or any of the following, namely, suturing the perineum, removal of adherent or retained placenta, exploration of the uterus, treatment of post-partum haemorrhage or any operative emergency arising directly from parturition, including all subsequent necessary visits during the first fourteen days inclusive of the day of birth, £1 11s. 6d. This fee not to be payable when a fee under paragraph (i) hereof is payable.

(iv) Fee for attendance at, or in connection with, an abortion, miscarriage, haemorrhage in cases of threatened abortion or ante-partum haemorrhage\*, including all visits in respect of such attendance during the fourteen days from and including the first visit, £1 11s. 6d.

(v) Fee for visits to mother and/or child not included under paragraphs (i) to (iv) hereof—

Where attendance is given to the mother only or to the child only—

	s.	d.
Day (9 a.m. to 8 p.m.)	5	0
Night (8 p.m. to 9 a.m.)	10	0

Where attendance is given to both the mother and child—

	s.	d.
Day (9 a.m. to 8 p.m.)	7	6
Night (8 p.m. to 9 a.m.)	15	0

(vi) The usual mileage fee of the district to be paid for all attendances under paragraphs (i) to (v) hereof:

Provided that one mileage fee only shall be paid in respect of one journey, whether such journey shall have been made for visiting one, or more than one, patient.

(vii) Fee for attendance on mother or child at the medical practitioner's residence or surgery, 2s. 6d. [918]

## SECOND SCHEDULE

FORM OF REPORT TO BE FURNISHED ON CONCLUSION OF ATTENDANCES FOR WHICH A FEE WILL BE CLAIMED UNDER PARAGRAPHS (I), (III) OR (IV) OF THE FIRST SCHEDULE TO THE MEDICAL PRACTITIONERS (FEES) REGULATIONS, 1940.

.....194 .

To the Medical Officer of Health of the .....†

(1) Name and address of patient attended .....

(2) Name of Midwife by whom called in .....

(3) Date of first visit.....

\* Haemorrhage after the twenty-eighth week of pregnancy.

† Insert name of the local supervising authority under the Midwives Acts, 1902 to 1936, for the area in which the patient was attended.

- \* (4) Condition for which attendance was given .....
- (5) Total number of visits made .....
- (6) Date of last visit ..... (a) local .....  
 (7) Condition of patient at last visit ..... (b) general .....
- † (8) Date of birth of child .....
- † (9) Whether the practitioner was present at the birth.....  
 Signature of practitioner .....  
 Address of practitioner .....  
 .....

[919]

\* \* \* \* \*

## MIDWIFERY TRAINING

*Circular 2221*

*December 9, 1940*

SIR,—I am directed by the Minister of Health to enclose for your information a copy of a memorandum setting out revised conditions for the payment of grant for the training of midwives. From this memorandum it will be seen that in future the Minister does not propose to enforce the condition that all applicants in respect of whom grant is claimed must declare their intention to practise midwifery. It has been decided that the revised rules of the Central Midwives Board by which the training is divided into two parts make this declaration unnecessary. It is assumed that candidates taking Part II of the training will normally intend to practise midwifery. In future, therefore, the grant will be payable in the case of Part I schools in respect of all pupils proceeding to take Part II as well as in respect of intending Health Visitors taking Part I only.

As regards the financial arrangements the Minister has also decided to make a concession in view of the desirability of increasing the number of midwifery pupils. He will not in future restrict grant to training schools in which fees are charged. It will, however, be seen that it is still the object of the grant to benefit those who intend to practise midwifery. All training institutions desirous of qualifying for grant under the new conditions must, therefore, supply to the Minister, in the form enclosed, a statement showing their financial arrangements, the fees charged and/or salaries paid.

These conditions will come into operation in respect of pupil midwives who begin the second period of training on or after the 1st January, 1941. The Minister will continue to pay grants under the conditions previously in force, in respect of pupil midwives who qualified for grant under those conditions. [920]

I am, Sir, etc.

\* The entry should state the condition found by the practitioner himself, whether or not it agrees with the reason given by the midwife for calling in medical aid.

† This information is only required when a fee will be claimed under paragraph (i) of the First Schedule to the Regulations.

# MORTGAGES

See LAND, ACQUISITION, SALE, ETC., OF.

## MOTOR LICENCES

STATUTES :—	PAGE	ORDERS, CIRCULARS AND MEMORANDA :—	PAGE
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Gas and Steam Vehicles (Excise Duties) Act, 1940 - - -	326	CASES :—	
		Rubie v. Faulkner, [1940] 1 All E. R. 285, D. C. - - -	328

## STATUTES

### FINANCE ACT, 1940

(3 & 4 Geo. 6, c. 29)

June 27, 1940

\* \* \* \* \*

**8. Excise licences for vehicles belonging to members of forces on leave.**—(1) Where a member of any of His Majesty's naval, military or air forces is on such leave as is hereinafter mentioned there may, subject to the provisions of this section, be issued to him, in respect of any mechanically propelled vehicle, a permit authorising the use of the vehicle on roads until the end of the day after the last day of the period for which the leave was granted, notwithstanding that no licence under section thirteen of the Finance Act, 1920, is in force in respect of the vehicle :

Provided that a permit under this section shall not be issued to any person—

- (a) except in respect of a vehicle which was registered in his name under the Roads Act, 1920, during some period during which a licence under the said section thirteen was in force in respect of the vehicle ; or
  - (b) in respect of more than one vehicle in any one period of leave ; or
  - (c) in respect of any vehicle unless, when the said last licence in respect of the vehicle under the said section thirteen expired, the vehicle was stated in the registration book thereof to be a cycle, a private vehicle or a private and goods vehicle.
- (2) The leave mentioned in the foregoing provisions of this section is leave granted for not more than twenty-one days, being—
- (a) leave from service at a place which is outside the United Kingdom, the Isle of Man and the Channel Islands ;
  - (b) leave from service in the Orkneys, the Shetlands or the Hebrides ;
  - (c) leave from service afloat (including leave granted on the occasion of the loss of a ship or the paying off of a ship's crew) ; or

- (d) leave from service as a member of an aircraft operational crew of the Royal Air Force or as one of the flying personnel of a first line squadron of the Fleet Air Arm.

(3) Subsection (5) of section five of the Roads Act, 1920 (which requires licences under section thirteen of the Finance Act, 1920, to be fixed to and exhibited on vehicles), and any regulations made for the purposes of that subsection, and subsection (4) of section thirteen of the Roads Act, 1920 (which imposes penalties for forging or fraudulently using any such licence or fraudulently lending it or allowing it to be used by any other person), shall apply to permits under this section as they apply to those licences; and subsection (5) of section thirteen of the Roads Act, 1920 (which provides for the payment into the Exchequer of penalties recovered under the last mentioned Act), shall apply to penalties in respect of permits under this section as it applies to penalties recovered under that Act.

(4) The Minister of Transport may make regulations for giving effect to the provisions of this section, and (without prejudice to the generality of the foregoing words)—

- (a) for prescribing the form of the permits to be granted thereunder and the authorities by whom they are to be granted; and
- (b) for requiring applicants for permits to produce such evidence as may be prescribed by the regulations that the applicant is entitled to the issue of the permit, and that there is in force, in relation to the user of the vehicle by the applicant or by other persons on his order or with his permission, such a policy of insurance or security as is necessary under Part II of the Road Traffic Act, 1930, and Part II of the Road Traffic Act, 1934.

(5) There shall be paid on the issue of any such permit as aforesaid a fee of two shillings in the case of any vehicle which would otherwise be taxable under paragraph 1 of the Second Schedule to the Finance Act, 1920 (which relates to cycles), and of ten shillings in the case of any other mechanically propelled vehicle, and all such fees shall be paid into the Exchequer.

(6) This section shall apply in relation to members of such women's services as may be prescribed by order of the Admiralty, the Army Council or the Air Council as it applies to members of His Majesty's naval, military or air forces; and any such order may be varied or revoked by a subsequent order of the Admiralty, the Army Council or the Air Council, as the case may be.

(7) This section shall be deemed to have come into operation on the nineteenth day of April, nineteen hundred and forty, and shall expire, save as respects things previously done or omitted to be done, on such day as His Majesty may by Order in Council determine; and any regulations made under this section may be made to apply retrospectively as from the said nineteenth day of April. [921]

This section permits members of the naval, military or air forces on leave in this country to license a motor car or cycle owned by them at a reduced rate. The terms of the statutory privilege are narrowly drafted and should be carefully studied.

The cheap permit provided by this section may be claimed in respect of any vehicle which was at any time registered in the name of the claimant: thus it may be claimed in respect of a vehicle which the claimant has transferred to another member of his or her family or sold. This provision is the result of a concession made by the Chancellor of the Exchequer in Committee.

The claim can only be made in respect of one vehicle by any one claimant, and the vehicle must be a "cycle, a private vehicle or a private and goods vehicle".

The permit is operative until the day following the expiration of the claimant's leave. The permit can only be claimed by a person who has been granted leave for not more than 21 days either—

- (a) from service outside the United Kingdom, the Isle of Man, and the Channel Islands, *or*
- (b) from service in the Orkneys, the Shetlands or the Hebrides, *or*
- (c) from service afloat, *or*
- (d) from service with an operational crew of the R.A.F. or a first line squadron of the Fleet Air Arm : *i.e.* it cannot be claimed by a member of the ground staffs.

**9. Reduction of duty on certain mechanically propelled vehicles used for agricultural purposes.**—(1) Sub-paragraph (a) of paragraph 4 of the Second Schedule to the Finance Act, 1920 (which, as amended by the Seventh Schedule to the Finance Act, 1933, and section ten of the Finance Act, 1939, prescribed the rate of duty payable under section thirteen of the Finance Act, 1920, in respect of the mechanically propelled vehicles mentioned in the said paragraph 4), shall, in relation to the use on roads, during the period specified in subsection (3) of this section, of such agricultural and other tractors and engines as are mentioned in the said sub-paragraph (a), have effect as if after paragraph (ii) thereof there were inserted the following paragraph—

"(iii) for hauling, from any such farm to a railway station, or from a railway station to any such farm, agricultural produce of, or articles required for, the farm."

(2) In subsection (7) of section two of the Finance Act, 1935 (which excepts from the provisions of that section withdrawing the rebate on heavy oils used as fuel for mechanically propelled vehicles the vehicles mentioned in sub-paragraphs (a), (b) and (c) of the said paragraph 4) the reference to the said sub-paragraph (a) shall in relation to the period mentioned in subsection (3) of this section, be construed as a reference to that sub-paragraph as amended by subsection (1) of this section.

(3) The period hereinbefore referred to is the period beginning with the eleventh day of March, nineteen hundred and forty, and ending with such date as His Majesty may by Order in Council determine, and this section shall be deemed to have come into operation on the said eleventh day of March. [922]

A preferential rate of excise duty at 5s. and a rebate on heavy oils used as fuels was granted in the case of certain agricultural vehicles by s. 10, Finance Act, 1939 (32 Statutes 551). The new section extends this preference to locomotive ploughing engines, tractors, agricultural tractors and other agricultural engines, which are not used on roads for hauling any objects except for hauling, from a farm to a railway station, or from a railway station to a farm, agricultural produce of, or articles required for, the farm.

The new section is made operative from March 11, 1940.

**10. Exemption from duty in respect of trailers used for refuse collection by local authorities and their contractors.**—(1) A vehicle shall not be chargeable with duty under sub-paragraph (d) of paragraph 5 of the Second Schedule to the Finance Act, 1920, by reason of the use thereof, during the period to which this section applies, by a local authority for drawing trailers used solely in connection with the collection and disposal of refuse.

(2) The period to which this section applies is the period beginning with the first day of June, nineteen hundred and forty, and ending with such date as His Majesty may by Order in Council determine, and this section shall be deemed to have come into operation on the said first day of June.

(3) The foregoing provisions of this section shall apply in relation to the use of a vehicle by any person for the purpose of performing a contract with a local authority as they apply in relation to the use of a vehicle by a local authority. [923]

This section exempts from excise duty vehicles used by a local authority for the sole purpose of drawing trailers for the collection and disposal of refuse.

\* \* \* \* \*

## THE GAS AND STEAM VEHICLES (EXCISE DUTIES) ACT, 1940

(3 & 4 GEO. 6, c. 6)

### PRELIMINARY NOTE

This Act was passed for the purpose of granting relief from excise duties in view of the development of goods vehicles using gas as fuel, either carried in containers or produced by means of a mobile plant. The relief provided for is two-fold. In the first place an allowance is made in determining the rate of duty for the weight of gas containers or gas-producer plant carried on, and for trailers carrying such containers or plant drawn by the vehicle (s. 1 (2) and (3)), and secondly the scale of rates of duty is extended to provide for, at proportionately reduced rates, vehicles of lower weights.

Gas-propelled vehicles are classified for taxation purposes with steam vehicles (Finance Act, 1920, Schedule II, paragraph 5, 16 Statutes 863), and although the present Act is designed to deal primarily with the former types, steam-driven goods vehicles under  $1\frac{1}{2}$  tons in weight unladen will share the benefit of s. 1 (5).

*An Act to reduce certain duties of excise chargeable in respect of goods vehicles driven by gas or steam.* [924] [31st January 1940.]

**1. Reduction of duties on gas and steam vehicles.**—(1) Paragraph 5 of the Second Schedule to the Finance Act, 1920 (which relates to excise duties on mechanically propelled goods vehicles), shall have effect subject to the amendments hereinafter specified in this section; and that paragraph is hereafter in this section referred to as “the principal paragraph.”

(2) For the purpose of computing the rate of the duty chargeable under any provision of the principal paragraph in respect of a goods vehicle, the weight unladen of the vehicle shall, if the vehicle carries a container for holding gas for the propulsion of the vehicle, or plant for producing such gas, be reduced—

- (a) where the weight unladen exceeds twelve hundredweight but does not exceed three tons, by half a ton;
- (b) where the weight unladen exceeds three tons but does not exceed six tons, by three-quarters of a ton;
- (c) where the weight unladen exceeds six tons, by one ton.

(3) Notwithstanding that a goods vehicle is used for drawing a trailer, the vehicle shall not be chargeable with duty under sub-paragraph (d) of the principal paragraph if the trailer is used solely for the carriage of—

- (a) a container for holding gas for the propulsion of the vehicle;
- (b) plant and materials for producing such gas.

(4) Sub-paragraph (c) (ii) of the principal paragraph (which relates to goods vehicles propelled by steam or constructed or adapted to use coal gas as fuel) shall have effect as if the word "gas" were substituted for the words "coal gas."

(5) The rates of duty chargeable under the said sub-paragraph (c) (ii) as amended by this section shall, in the case of vehicles not exceeding one-and-a-half tons in weight unladen, be as follows :—

Not exceeding 12 cwt. in weight unladen	.. ..	£10
Exceeding 12 cwt. but not exceeding 1 ton in weight unladen	.. ..	£15
Exceeding 1 ton but not exceeding 1½ tons in weight unladen	.. ..	£20

(6) For the purpose of this section and the principal paragraph as amended by this section, the expression "gas" shall mean any fuel which is wholly gaseous at a temperature of sixty degrees Fahrenheit under a pressure of thirty inches of mercury.

(7) References in this section to the principal paragraph shall be construed as references to that paragraph as amended by section twenty-five of, and Part III of the Seventh Schedule to, the Finance Act, 1933, and any subsequent enactment. [925]

Paragraph 5 of the Second Schedule to the Finance Act, 1920, has been substituted by Part III of the Seventh Schedule to the Finance Act, 1933. See 26 Statutes 685 *et seq.* for the substituted paragraph. The paragraph has been further amended by ss. 3 and 4 and Part II of the Second Schedule to the Finance Act, 1935, 28 Statutes 311, 312, 325, and s. 11 of the Finance Act, 1936, 29 Statutes 769.

Sub-paragraph (c) (ii) of the substituted paragraph 5 provided a minimum rate of £25 for vehicles to which the paragraph applied to an unladen weight not exceeding 2 tons. The rates introduced by subsection (5), *supra*, are to meet the cases of the lighter vehicles now in use falling within the description under the sub-paragraph.

The effect of subsection (2), *supra*, upon the calculation of the other unladen weights should be observed.

**2. Short title and commencement.**—(1) This Act may be cited as the Gas and Steam Vehicles (Excise Duties) Act, 1940.

(2) This Act shall be deemed to have come into operation on the first day of January nineteen hundred and forty. [926]

## ORDERS, CIRCULARS AND MEMORANDA

### ROAD VEHICLES (PART YEAR LICENSING) ORDER, 1940

*S. R. & O.*, 1940, No. 211

February 9, 1940

Whereas the Minister of Transport in exercise of the powers conferred on him by section 22 of the Finance Act, 1921, and section 25 of the Finance Act, 1933, made provision by the Road Vehicles (Part Year Licensing) Order, 1939, with regard to the taking out of licences under the Finance Act, 1920, in respect of certain mechanically-propelled vehicles for such periods of the year and on payment of duty at such rates as were therein prescribed.

Now, therefore, the Minister of Transport in exercise of the powers conferred on him by section 22 of the Finance Act, 1921, and of all other powers enabling him in that behalf and without prejudice to the further exercise of those powers hereby orders as follows :—

1. A licence may be taken out for the period from 21st day of March, 1940, to 30th day of June, 1940, and the duty payable on such licence shall be  $27\frac{1}{2}$  per cent. of the full annual rate of duty together with the additional sum hereinafter provided. [927]

2. A licence may be taken out for the period from 21st day of March, 1940, to 31st day of December, 1940, and the duty payable on such licence shall be an amount equal to three-fourths of the full annual rate of duty together with :—

(a) a sum equal to five per cent. of that amount, and

(b) the additional sum hereinafter provided. [928]

3. The additional sum hereinafter mentioned shall be—

(a) in the case of cycles, the sum of 1s. 6d. ;

(b) in the case of mechanically-propelled vehicles other than cycles—

(i) where the full annual rate of duty is less than £30, the sum of 5s.

(ii) where the full annual rate of duty is £30 or over, the sum of 10s. [929]

4. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [930]

5. This Order may be cited as “The Road Vehicles (Part Year Licensing) Order, 1940.” [931]

\* \* \* \* \*

## CASES

*Motor Vehicle—Learner-driver—“L” Sign on Vehicle—Duty of Supervisor—Road Traffic Act, 1930 (c. 43), s. 5 (3)—Motor Vehicle (Driving Licences) Regulations, 1937 (S. R. & O., 1937, No. 438), r. 16 (3) (a), (c).*

The owner of a motor vehicle, who held a provisional licence issued to him under the Road Traffic Act, 1930, s. 5 (3), and whose vehicle displayed the “L” sign in accordance with the Motor Vehicles (Driving Licences) Regulations, 1937, r. 16 (3) (c), was driving it on a certain road. With him in the vehicle as a “supervisor,” in accordance with r. 16 (3) (a) of the regulations, was appellant, who, as a competent driver, had undertaken to act in that capacity at the owner’s request. On a bend of the road the owner drew out from behind and attempted to overtake a horse and cart, but, owing to the bend, he was unable to see a motor lorry which was approaching from the opposite direction on its proper side of the road. The engine of his motor van stopped, leaving the vehicle well over the centre of the road, and a collision took place. Appellant was sitting in the passenger’s seat on the owner’s

left-hand side, and saw the horse and cart and the white line in the centre of the road, and he was in a position to see that the owner was about to overtake the horse and cart on the bend, so taking his vehicle to the off side of the white line. The justices convicted the owner of driving without due care and attention, and the appellant of aiding and abetting the commission of the offence. Thereupon appellant brought this appeal :—

*Held* : the regulation provides that a learner-driver shall be allowed to drive a motor vehicle on the highway only on condition that he is under the supervision of an experienced driver, and it was thus open to the justices to find that, as appellant had remained passive when the circumstances demanded that he should be active, the regulation had not been complied with, and appellant was rightly convicted.—*RUBIE v. FAULKNER*, [1940] 1 K. B. 571 ; [1940] 1 All E. R. 285 ; 109 L. J. K. B. 241 ; 163 L. T. 212 ; 104 J. P. 161 ; 56 T. L. R. 303 ; 84 Sol. Jo. 119, D. C. [932]

## MUSIC, SINGING AND DANCING

CASES :—

R. v. Hereford Licensing JJ., *Ex parte* Newton, [1940] 4 All E. R. 479, D. C. PAGE 329

### CASES

*Sunday entertainments—Building licensed for Public Dancing—Condition prohibiting Dancing on Sundays—Order amending Licence by removing Condition—Validity—Sunday Observance Act, 1780 (c. 49), s. 1—Public Health Acts Amendment Act, 1890 (c. 59), s. 51—Sunday Entertainments Act, 1932 (c. 51), s. 3.*

The Public Health Acts Amendment Act, 1890, s. 51, empowering justices to grant licences for the use of premises for, *inter alia*, public dancing, must be read with the Sunday Observance Act, 1780, s. 1, which makes it illegal to grant a licence for public dancing on Sundays, and does not give or purport to give any power to grant such a licence. Accordingly, justices have no power to make an order amending a licence for the use of premises for public dancing by removing therefrom a restriction against the use of the premises for such purpose on Sundays.—*R. v. HEREFORD LICENSING JJ., Ex parte* NEWTON, [1940] 4 All E. R. 479 ; 104 J. P. 441 ; 57 T. L. R. 74, D. C. [933]

# NATIONAL HEALTH AND UNEMPLOYMENT INSURANCE

## ORDERS, CIRCULARS AND MEMORANDA :—

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National Health Insurance (Employment under Local and Public Authorities)

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## ORDERS, CIRCULARS AND MEMORANDA

### NATIONAL HEALTH INSURANCE (EMPLOYMENT UNDER LOCAL AND PUBLIC AUTHORITIES) AMENDMENT ORDER, 1940

*S. R. & O., 1940, No. 1691*

*September 2, 1940*

510.

The National Health Insurance Joint Committee and the Minister of Health, acting jointly, hereby certify under subsection (7) of section 168 of the National Health Insurance Act, 1936, that it is expedient that this order should come into operation forthwith, and in pursuance of the powers conferred by paragraph (d) of Part I of the First Schedule to that Act and of all other powers enabling them in that behalf, hereby make the following order to come into operation forthwith as a provisional order :—

1.—(1) This order, which may be cited as the National Health Insurance (Employment under Local and Public Authorities) Amendment Order, 1940, shall be read as one with the National Health Insurance (Employment under Local and Public Authorities) Order, 1937 (hereinafter referred to as the “principal order”).

(2) This order shall not apply to Scotland or Northern Ireland. [934]

2. The following employment shall be added to the list of employments specified in the Schedule to the principal order :—

“Employment as clerk to a parish council, or other local or public authority, where personal service is ordinarily required only occasionally or outside the ordinary hours of work.” [935]

\* \* \* \* \*

# OFFICERS OF LOCAL AUTHORITIES

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## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL . . . ADDING REGULATION . . . 60D TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1134*

*July 2, 1940*

\* \* \* \*

9. After Regulation sixty C of the principal Regulations there shall be inserted the following Regulation :—

**60D. “Employment of certain aliens under the Crown in civil capacities.**—During the continuance in force of this Regulation, any alien who has entered or enters the United Kingdom on or after the ninth day of May, nineteen hundred and forty, from territory which has been invaded by a Power with whom His Majesty is at war, may, notwithstanding anything in the Act of Settlement or in section six of the Aliens Restriction (Amendment) Act, 1919, be employed, with the consent of the Treasury, in any civil capacity under the Crown :

Provided that nothing in this Regulation shall authorise the employment as aforesaid of any enemy alien. [936]

\* \* \* \*

## LOCAL GOVERNMENT STAFFS (WAR SERVICE) ACT, 1939

*Circular 1994*

*17th April, 1940*

SIR,—I am directed by the Minister of Health to state that representations have been made to the Government in regard to the preservation of the superannuation rights of persons who transfer to work on armament production, including the building and repair of ships, for the period of the present emergency.

So far as employees of local authorities are concerned, the Authority will be aware that under section 14 of the Local Government Staffs (War Service) Act, 1939, the Minister is empowered to recognise as “war service” for the purposes of that Act any employment during the period of the emergency which he considers may properly be treated for the purposes of the Act in the same manner as service in His Majesty’s Forces. The superannuation rights of any employee of a local authority who ceases to serve in his civil capacity in order to

undertake "war service" are preserved by sections 3 to 7 of that Act. The Minister will be prepared to recognise as war service for purposes of that Act the employment in war work of the kind mentioned above of employees who undertake such employment with the consent of their authority. Recognition would normally be subject to the following conditions :—

(1) The men are surplus to the essential requirements of the authority; and

(2) The arrangements for their transfer are made with the concurrence of the local branch of the Ministry of Labour and National Service.

As regards the first condition, men who are skilled engineers or who were formerly employed as skilled workers in the engineering or ship-building industries but are not now engaged on work in which their technical qualifications are essential and fully utilized, should be specially considered with a view to their release, where possible.

As regards the second condition consultations have taken place with the Ministry of Labour and National Service and it would be convenient if the Authority would provide each employee desirous of undertaking work of this kind whom they are prepared to release with a certificate to this effect. The certificate should be presented by the employee at the nearest Local Office of the Ministry of Labour and National Service, and facilities should, where possible, be given to employees to attend at the Local Office during its normal working hours. The applicant would be put in touch with any suitable vacancies by the Local Office and, if he is engaged, the name and address of the employer would be notified by the Local Office to the Local Authority.

Subject to what is said in the concluding paragraph of this Circular, the Minister hereby recognises as war service for purposes of the Local Government Staffs (War Service) Act, 1939, in the case of any employee of the Local Authority to whom a certificate has been given as mentioned above, employment in which he has been placed through the Ministry of Labour and National Service in accordance with the arrangements set out in this Circular. The Minister should be informed from time to time of the number of employees so placed.

The Minister has been asked by the Minister of Labour and National Service to call the attention of Local Authorities to the urgent need, in the national interest, of securing that the skilled labour available in the country shall be used to the best advantage. The Government programme necessitates a great expansion of the engineering and ship-building industries requiring the services of large numbers of additional skilled workers. The Minister accordingly will be glad if the Authority will consider this matter particularly in relation to those of their employees who, as above mentioned, are skilled engineers or who were formerly employed as skilled workers in the engineering or ship-building industries. In view of the heavy demand for such workers, Local Offices are being instructed to seek the help of Local Authorities in meeting this demand.

It is not intended that the arrangements outlined in this Circular should apply to the teaching staff of Local Education Authorities. Those teachers who have suitable qualifications and can be spared from their usual work are likely to be fully engaged in the work of

training for war-time industry, which was the subject of the Board of Education Circular 1505. The treatment of war service as service for the purposes of teachers' superannuation is governed by the Teachers Superannuation (War Service) Act, 1939, and if in any exceptional case it is desired to transfer a teacher to work of the character indicated in this Circular, application should in the first place be made to the Board of Education. [937]

I am, Sir, etc.

\* \* \* \* \*

## OPEN SPACES

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## ORDERS, CIRCULARS AND MEMORANDA

### MALVERN HILLS CONSERVATORS (TEMPORARY PROVISIONS) ORDER, 1940

*S. R. & O., 1940, No. 1940*

*March 7, 1940*

At the Court at Buckingham Palace, the 7th day of March, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas application has been made on behalf of the Malvern Hills Conservators praying that His Majesty may be graciously pleased to make an Order in Council under section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939, with respect to such of those Conservators (hereinafter referred to as the "elected Conservators") as are elected by the local government electors mentioned in section seven of the Malvern Hills Act, 1924 :

Now, therefore, His Majesty in exercise of the powers conferred on Him by the said section two, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) Until the first day of November, nineteen hundred and forty-one no election of elected Conservators shall be held, and any vacancy among the elected Conservators, whether occurring before or after the day from which this Order has effect shall be filled by co-option by the Malvern Hills Conservators.

(2) The period for which the elected Conservators in office on the day from which this Order has effect and any Conservator appointed under the last foregoing paragraph shall hold office is hereby extended until the said first day of November.

(3) On the said first day of November elections shall be held in accordance with the provisions of the Malvern Hills Act, 1924, of elected Conservators who shall hold office for a period of one year.

(4) No person shall by virtue of any enactment or rule of law be required to perform any duty solely for the purpose of an election which by virtue of this Order is not to be held. [938]

2.—(1) This Order may be cited as the Malvern Hills Conservators (Temporary Provisions) Order, 1940.

(2) This Order shall have effect as from the first day of September, nineteen hundred and thirty-nine. [939]

\* \* \* \* \*

## WIMBLEDON AND PUTNEY COMMONS CONSERVATORS (TEMPORARY PROVISIONS) ORDER, 1940

*S. R. & O., 1940, No. 330*

*March 7, 1940*

At the Court at Buckingham Palace, the 7th day of March, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas application has been made on behalf of the Wimbledon and Putney Commons Conservators praying that His Majesty may be graciously pleased to make an Order in Council with respect to those Conservators under section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939 :

Now, therefore, His Majesty, in pursuance of the powers conferred on Him by the said section two and of all other powers enabling Him in that behalf is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The period of office of the elected Conservators holding office at the date from which this Order has effect is hereby extended until the first Wednesday in April, nineteen hundred and forty-one, and accordingly the triennial election due to be held under section fourteen of the Wimbledon and Putney Commons Act, 1871, before the first Wednesday in April, nineteen hundred and forty, shall not be held and no list of electors shall be made therefor. [940]

2. If before the said first Wednesday in April, nineteen hundred and forty-one, there is any vacancy among the elected Conservators, (whether occurring before or after the date from which this Order has effect), no election shall be held, but another person qualified to be an elector of Conservators shall be appointed by the Conservators under their common seal to fill the vacancy until that day. [941]

3. An election shall be held within three months before the said first Wednesday in April, nineteen hundred and forty-one, of Conservators who shall hold office until the first Wednesday in April, nineteen hundred and forty-three. [942]

4. Subject to the provisions of this Order any enactment or rule of law applicable in the case of elections held under section fourteen of the Wimbledon and Putney Commons Act, 1871, and of Conservators elected thereat shall apply in the case of the election to be held under the last foregoing Article and of Conservators elected thereat and any Conservator appointed under Article 2 hereof. [943]

5. (1)—This Order may be cited as the Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1940.

(2) This Order shall have effect from the first day of March, nineteen hundred and forty. [944]

\* \* \* \* \*

### SCHEDULE OF FEES IN RESPECT OF TRANSACTIONS UNDER SECTION 3 OF THE ACCESS TO MOUNTAINS ACT, 1939

*S. R. & O., 1940, No. 745*

*May 6, 11, 1940*

Fees to be taken :—

	£	s.	d.
(a) On an application for an Order applying the provisions of the Access to Mountains Act, 1939, to any land being mountain, moor, heath, down or cliff, a sum not exceeding .. ..	10	0	0
(b) On an application for an Order varying an Order made under (a) a sum not exceeding .. ..	5	0	0
(c) On an application for an Order revoking an Order or Orders made under (a) or (b) a sum not exceeding .. ..	5	0	0

The foregoing fees are exclusive of the cost of any maps and advertisements and of any local inquiry which the Minister may consider necessary.

This Schedule of Fees shall apply to any transaction herein referred to in any proceedings commenced on or after 1st January, 1940.

The Minister of Agriculture and Fisheries hereby approves the foregoing Schedule of Fees. [945]

\* \* \* \* \*

## ACCESS TO MOUNTAINS REGULATIONS, 1940

*S. R. & O., 1940, No. 746**May 13, 1940*

1. An application to the Minister of Agriculture and Fisheries (hereinafter referred to as "the Minister") for an Order under Section 3 of the Access to Mountains Act, 1939 (hereinafter referred to as "the Act") applying the provisions of the Act to any land being mountain, moor, heath, down or cliff, or for an Order varying or revoking such Order, shall be in such form as the Minister shall require and shall show when, in what manner, where and on whom the notices required by Regulation 2 of these Regulations were served; and where the consent of any other person to the application is requisite, the application shall contain or be accompanied by such consent.

The application shall also be accompanied (except in the case of an application for a revoking Order or for a varying Order not providing for the application of the Act to land) by a map (on the scale of 6 inches to the mile or on such other scale as may be approved by the Minister) upon which the boundaries of the land to which the application relates shall be delineated by an edging of colour and any points which it is desired to specify or describe in the Order as places for entry on the land and any particular areas of land to which it is desired to prohibit entry shall be clearly shown by appropriate markings. [946]

2. Every notice of the applicant's intention to apply for an Order shall be in the form A in the Schedule hereto or to the like effect and shall be given by the applicant in the manner following :—

- (a) By service, by registered post, of a copy of the notice upon the owner of the land to which the Order is to apply (if not the applicant), on the occupier of the land, and on any other person having an interest in the land not capable of being bound or over-reached by a disposition made by the owner of the land (including a person entitled to sporting rights over the land, whether by licence or otherwise) : provided that in a case where the owner or other person interested in the land is unknown to the applicant and cannot after diligent enquiry be ascertained by him, the Minister may dispense with a notice to that person.
- (b) By service of a copy of the notice on the council of every county borough, urban and rural district in which the land to which the Order is to apply or any part thereof is situate, and, in the case of land subject to rights of common, the council of every parish in which the land or part thereof is situate.
- (c) By the publication of the notice in two successive weeks in one or more newspapers having a wide circulation in the neighbourhood of the land to which the Order is to apply. [947]

3. The price at which copies of particulars of any proposed limitations and conditions may be obtained shall not exceed one shilling. [948]

4. Before holding a public local inquiry for the purposes of the Act the Minister may require the applicant for the Order to deposit a sum

of money to meet the cost of the inquiry and of any other expenses or fees which may be incurred by, or be payable to, the Minister in connection with the application and the Order. [949]

5. All copies of Orders and copies of maps attached thereto which shall be deposited by the Minister in pursuance of subsection (11) of Section 3 or of subsection (3) of Section 4 of the Act shall be available for inspection by any person interested during ordinary office hours. [950]

6. On the making of an Order by the Minister, other than a revoking Order, the applicant for the Order shall if so required by the Minister cause a notice (in the form B in the Schedule hereto, or to the like effect) to be posted or painted on notice boards erected upon the land in the positions indicated in the Order. It shall be the duty of the said applicant and his successors in title to maintain the said notice and notice boards (and to amend the notice if necessary in accordance with any varying Order, but at the expense of the applicant for such varying Order) for so long as the Order remains in force :

Provided that if the application for the Order was made by an organisation and that organisation ceases to exist or becomes incapable of carrying out its obligations in this respect, the council of the county or county borough in which the land, or the greater part of the land, is situate, may assume responsibility for the maintenance of the notice and notice boards.

The applicant for the Order shall also if required by the Minister serve a copy of the notice on the councils of every borough, urban and rural district in which the land or any part thereof is situate, and upon the county Police authority.

On the making of an Order revoking an Order any notices in the form B above-mentioned erected on the land shall be removed by the applicant for the original Order, but at the expense of the applicant for the revoking Order. [951]

7. The Minister may before making an Order under Section 5 of the Act to close the land to the public for a specified period on account of the danger of fire require the applicant to give an undertaking that he will on the making of the Order forthwith at his own expense :—

- (a) Publish a copy of the Order in two or more newspapers having a wide circulation in the neighbourhood of the land.
- (b) Post copies of the Order at the places on the land at which the permanent notices referred to in paragraph 6 of these Regulations are exhibited, and
- (c) Send copies of the Order to the council of each county, borough, urban and rural district in which the land is situate, and to the county Police authority. [952]

8. These Regulations may be cited as the Access to Mountains Regulations, 1940, and shall come into operation on the 15th day of May, 1940. [953]

\* \* \* \* \*

## SCHEDULE

## ACCESS TO MOUNTAINS ACT, 1940

FORM A.

## NOTICE

NOTICE is hereby given that an application is about to be made to the Minister of Agriculture and Fisheries by..... for an Order (to vary or revoke the Order or Orders dated.....)\* applying the provisions of the Access to Mountains Act, 1940, to certain land in the parish of..... in the county of.....containing.....acres or thereabouts (with the object of securing to the public access to the said land for air and pedestrian exercise subject to the limitations and conditions specified in the Act and in the Order):\*

AND THAT the said applicant is prepared to receive and consider any OBJECTIONS to the making of the said application which may be made to him in writing within ONE MONTH of the publication of this Notice.

The application for the Order (and the Map relative thereto)\* may be inspected by any person interested at..... (preferably a public building) on any week day between the hours of.....and.....(and copies of the limitations and conditions proposed to be specified in the Order and of the proposed provisions as to the places for entry on the land may be obtained from.....at the price of.....per copy).\*†

.....  
(Name and address of applicant for Order.)

(Date.)

[954]

FORM B.

## ACCESS TO MOUNTAINS ACT, 1940

## NOTICE

1. The provisions of the above-named Act have been applied to the land (described in the Schedule hereto) (shown on the plan hereunder)\* by an Order of the Minister of Agriculture and Fisheries dated the..... day of.....(as varied by an Order dated the.....).\* (A copy) (copies)\* of the Order(s) may be inspected at the Office of the County (Borough) Council of.....

2. The effect of the Act and the said Order(s) is that without prejudice to the legal rights and interests in the land NO PERSON MAY BE EXCLUDED FROM ENTERING OR BEING UPON THE LAND FOR AIR AND PEDESTRIAN EXERCISE ON ANY DAY BETWEEN ONE HOUR BEFORE SUNRISE AND ONE HOUR AFTER SUNSET (BUT ONLY IF ENTRY IS MADE AT THE POINTS INDICATED BY THE \* ON THE PLAN)\* SUBJECT TO THE LIMITATIONS AND CONDITIONS SPECIFIED IN THE ACT AND IN THE SAID ORDER(S), particulars of which are given in this Notice.

.....  
(Signature of person or authority on whose application the Minister's Order was issued.)

(Space for Schedule or Plan as the case may be.)

[955]

\* Strike out words inapplicable.

† N.B.—This price not to exceed one shilling.

LIMITATIONS AND CONDITIONS UPON PUBLIC ACCESS TO  
THE LAND REFERRED TO IN THIS NOTICE.

1. No person shall, without lawful authority (proof of the possession of which shall lie upon him) commit any of the following acts in or upon the land :—(here quote Section 6 of the Act).

2. No person shall, without lawful authority :—(here insert special limitations and conditions contained in the Minister's Order(s)).

3. No person shall, without lawful authority, during such period as may be specified in a Closing Order made by the Minister at any time in the future for the purpose of preventing danger from fire, enter upon the land or any part thereof specified in the said Order. A copy of any such Closing Order will be posted on or near to this Notice.

N.B.—Any person who contravenes (any of the above limitations and conditions) (any of the limitations and conditions mentioned in paragraphs 1 and 3 above)\* will be guilty of an offence and will be liable on summary conviction to a fine not exceeding, in the case of contravention of any of the provisions of paragraph 1 (b) above, £5 for the first offence and £10 for any subsequent offence, and in the case of any other offence £2. [956]

## PERSONS OF UNSOUND MIND

CASES :—

Wood v. London County Council, [1940] 2 K. B. 642

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### CASES

*Kitchen in Public Institution—Electrical Mincing Machine—Dangerous Machine—Contributory Negligence—Factories Act, 1937 (c. 67), ss. 14 (1), 151 (1), (9).*

Plaintiff, who was employed by defendants at the Bexley Mental Hospital, met with an accident while working an electric mincer in the kitchen of that institution. She was shown how to use both the machine and the plunger for pushing the meat on to the mincing-knife. She put her hand through an aperture in the guard for the purpose of dislodging a piece of meat which had become attached to the side of the hopper. The aperture was of such a size that, while it would be impossible for a man to get his hand through it, it was quite possible for a young girl to get her hand through, and, in the latter case, the guard was an insufficient protection. It was contended that the kitchen of the institution was a factory within the meaning of the Factories Act, 1937, s. 151, in that persons were there employed in manual labour in a process for or incidental to the making or altering of any article, and that this was so although the work was not carried on for trade or for purposes of gain, since the premises were in the occupation of a public authority :—

*Held* : (i) the kitchen was a factory within the Factories Act, 1937, s. 151 ;

(ii) the machine was a dangerous machine, and was not securely fenced ;

(iii) the facts did not disclose any negligence or defect in the system of working ;

(iv) Plaintiff was guilty of contributory negligence, and for that reason the claim failed;

(v) if a case, put into the short non-jury list on the order for directions, is subsequently found to be likely to take longer than stated in the order, it is the duty of the parties to inform the court of this fact, even up to within a day or two of the date of hearing.—*Wood v. L.C.C.*, [1940] 2 K. B. 642; 163 L. T. 408; 104 J. P. 425; (1940), 57 T. L. R. 1; 84 Sol. Jo. 622. [957]

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## PETROLEUM

*See REGULATED INDUSTRIES, TRADES AND BUSINESSES.*

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## POLICE

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## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL SUBSTITUTING A NEW REGULATION FOR REGULATION 39 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1940, No. 846

May 31, 1940

At the Court at Buckingham Palace, the 31st day of May, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered that for Regulation thirty-nine of the Defence (General) Regulations, 1939, there shall be substituted the following Regulation :—

**39. "Control of police forces.—**(1) The Secretary of State may give with respect to any police force such general or special instructions as appear to him to be necessary or expedient in the interests of the public safety, the defence of the realm, the maintenance of public order or the efficient prosecution of the war, and, in particular, may by any such instructions make provision for the assistance of one police force by another.

(2) Instructions given with respect to any police force under the last foregoing paragraph may be given either to the police authority by which the force is maintained or to the chief officer thereof, and shall have effect notwithstanding any restriction or limitation imposed by or under any Act.

(3) Where, in pursuance of instructions given under paragraph (1) of this Regulation, any constables are transferred to any police force, then notwithstanding that they have not been sworn or have not made any declaration as members of that force, they shall be deemed for all purposes to be members of that force, and shall have powers, duties and privileges accordingly.

(4) Any expenditure incurred by or on behalf of a police force by reason of an instruction given under this Regulation shall, unless the Secretary of State otherwise directs, be defrayed in the first instance out of the police fund out of which the expenses of that force are paid, but the Secretary of State may, in respect of any such expenditure, require such adjustments to be made between police funds as appear to him to be just having regard to the instruction.

(5) In this Regulation the expressions 'police authority' and 'police fund' have the same meanings respectively as in section thirty of the Police Pensions Act, 1921.

(6) This Regulation shall not extend to Northern Ireland." [958]

\* \* \* \*

## ORDER IN COUNCIL . . . AMENDING REGULATION 39 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1940, No. 881

June 4, 1940

\* \* \* \*

**3.** After paragraph (3) of Regulation thirty-nine of the principal Regulations, the following paragraph shall be inserted :—

"(3A) The Secretary of State may, to such extent and subject to such restrictions as he thinks proper, delegate all or any of the powers conferred on him by paragraph(1) of this Regulation to any specified persons or class of persons." [959]

\* \* \* \*

## ORDER IN COUNCIL . . . ADDING REGULATION 40AA . . .

*S. R. & O., 1940, No. 1016*

*June 19, 1940*

\* \* \* \* \*

4. After Regulation forty A of the principal Regulations there shall be inserted the following Regulation :—

**40AA. “ Extension of power to appoint special constables nominated by the Admiralty, Army Council or Air Council.—**(1) The power conferred by section three of the Special Constables Act, 1923, to appoint persons nominated by the Admiralty, Army Council, or Air Council, to be special constables within the places and limits therein mentioned shall extend to the appointment of persons so nominated to be special constables in, and within fifteen miles of, any other premises in Great Britain which are for the time being in the possession or under the control of the Admiralty, the Army Council, the Air Council, the Secretary of State for Air, the Minister of Supply or the Minister of Aircraft Production, or are for the time being used for or in connection with naval, military or air force purposes, and the said section three shall have effect accordingly.

(2) The Metropolitan Police Act, 1860, and the Metropolitan Police (Employment in Scotland) Act, 1914, (both as originally enacted and as applied to the Air Force) and section three of the Special Constables Act, 1923, shall, during the continuance in force of this Regulation, have effect as if the proviso to section two of the first-mentioned Act were omitted.

(3) Any special constable who, when this Regulation comes into force, is authorised under section three of the Special Constables Act, 1923, to act within the places and limits therein mentioned, may, without being further appointed or sworn for the purpose, act within the premises and limits within which special constables may be appointed to act by virtue of paragraph (1) of this Regulation.” [960]

\* \* \* \* \*

## ORDER IN COUNCIL . . . ADDING REGULATION . . . 40AB . . . TO THE DEFENCE (GENERAL) REGULA- TIONS, 1939

*S. R. & O., 1940, No. 1134*

*July 2, 1940*

\* \* \* \* \*

7. After Regulation forty AA of the principal Regulations there shall be inserted the following Regulation :—

**40AB. “ Miscellaneous provisions as to police forces.—**(1) The following provisions shall not apply to constables appointed for service during a period of national emergency only, that is to say, sections one, two and

four of the Police Act, 1919, and the Schedule thereto, regulations made under the said section four, the Police Pensions Acts, 1921 and 1926, the Police (Appeals) Act, 1927, and the Police and Firemen (War Service) Act, 1939; and accordingly for the purposes of the said provisions such constables as aforesaid shall not be deemed to be members of a police force within the meaning of any of those enactments.

(2) The Secretary of State may make rules as to the government, pay, allowances, clothing, expenses and conditions of service of such constables as are mentioned in the last foregoing paragraph.

(3) During the continuance in force of this paragraph subsection (2) of section four of the Police Act, 1919, shall not have effect.

(4) This Regulation shall not extend to Northern Ireland." [961]

\* \* \* \* \*

### ORDER IN COUNCIL ADDING REGULATION 40AB TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1379*

*July 31, 1940*

\* \* \* \* \*

3.—(1) After Regulation forty AA of the principal Regulations there shall be inserted as a new Regulation forty AB the following Regulation :—

**40AB. "Reduction of minimum age for appointment of special constables.**—Section four of the Special Constables Act, 1923, shall have effect during the continuance in force of this Regulation as if the words 'of or exceeding the age of eighteen years' were substituted for the words 'of or exceeding the age of twenty years'".

(2) Regulation forty AB of the principal Regulations shall be re-numbered as Regulation forty AC. [962]

\* \* \* \* \*

### ORDER IN COUNCIL ADDING REGULATION . . . 40AD TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 2002*

*November 19, 1940*

\* \* \* \* \*

2. After Regulation forty AC of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

**40AD. "Central Conferences and Central Committees of Police Federation.**—(1) During the continuance in force of this Regulation

the Central Conferences for which provision is made by the Schedule to the Police Act, 1919, shall not be held, and accordingly paragraph 6 of Part I of the said Schedule shall not have effect :

Provided that if a Secretary of State is of opinion that the holding of Central Conferences for all the ranks of the police forces in England and Wales, or, as the case may be, in Scotland, for which such Conferences are required to be held by virtue of the said Part I would not be prejudicial to the public safety the defence of the realm the maintenance of public order or the efficient prosecution of the war, he may by order direct that such Central Conferences shall be held at such times as may be specified in the order.

(2) Any order made under this Regulation may contain such incidental and consequential provisions as the Secretary of State considers to be expedient, and, in particular, may make provision for the election of delegates to Central Conferences to be held in pursuance of the order, and may, if it appears to the Secretary of State to be expedient in the interests of the public safety the defence of the realm the maintenance of public order or the efficient prosecution of the war that the numbers of delegates to be elected by Branch Boards for any rank should be reduced, make such provision for reducing those numbers as appears to the Secretary of State to be desirable.

(3) Until a Central Committee is elected by a Central Conference held for any rank after the date of the coming into force of this Regulation, there shall be a Central Committee for that rank constituted as follows, that is to say—

(a) the persons who last before that date were members of the Central Committee for that rank shall, if they are on that date qualified to be members of the Central Committee for that rank, hold office as members of the Central Committee for that rank while they remain so qualified, so, however, that any person who is a member of a Central Committee by virtue of this sub-paragraph may resign his office as such ; and

(b) any casual vacancies amongst the members of the Committee (whether they occurred before the date aforesaid or occur after that date) shall be filled in accordance with regulations made under paragraph 17 of Part I of the Schedule to the Police Act, 1919.

(4) Where a Central Committee is elected by a Central Conference held for any rank in pursuance of any such order as aforesaid, the normal term of office of members of the Committee shall continue until a further Central Committee is elected by a Central Conference for that rank, and any casual vacancies amongst the members of the Committee shall be filled in accordance with such regulations as aforesaid.

(5) This Regulation shall not extend to Northern Ireland.” [963]

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**SPECIAL CONSTABLES ORDER, 1940***S. R. & O., 1940, No. 1193**July 2, 1940*

At the Court at Buckingham Palace, the 2nd day of July, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas by the Special Constables Act, 1914, as amended by the Special Constables Act, 1923, power is conferred on His Majesty, by Order in Council, to make Regulations with respect to the appointment and position of special constables appointed under the Special Constables Act, 1831, or under Section 196 of the Municipal Corporations Act, 1882, and by these Regulations to make such provisions as are mentioned in the Special Constables Act, 1914, as so amended :

And whereas provision was made by the Special Constables Order, 1939, with regard to the employment of special constables during the present war, and it is now necessary to make further provision with regard to such employment :

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. A special constable appointed before the 28th day of September, 1939, who serves as such in a whole-time capacity during the present war may be granted pay at the rate and on the conditions for the time being approved by the Secretary of State, provided that a special constable who is granted pay under the provisions of this Order shall not be granted any allowance in consideration of wages lost under the provisions of clause (b) of subsection (1) of paragraph 7 of the Special Constables Order, 1923. [964]

2. The Special Constables Order, 1939, is hereby revoked. [965]

3. This Order may be cited as the Special Constables Order, 1940. [966]

\* \* \* \* \*

**SPECIAL CONSTABLES ORDER (NO. 2), 1940***S. R. & O., 1940, No. 1274**July 10, 1940*

At the Court at Buckingham Palace, the 10th day of July, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas by the Special Constables Act, 1914, as amended by the Special Constables Act, 1923, power is conferred on His Majesty, by Order in Council, to make Regulations with respect to the appointment and position of Special Constables appointed under the Special Constables Act, 1831, or under section one hundred and ninety-six of the

Municipal Corporations Act, 1882, and by these Regulations to make such provisions as are mentioned in the said Special Constables Act, 1914, as so amended :

And whereas it is desirable to reduce the minimum age of appointment of special constables under paragraph 1 of the Special Constables Order, 1923 :

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. “ 18 years ” shall be substituted for “ 20 years ” in paragraph 1 of the Special Constables Order, 1923. [967]

2. This Order may be cited as the Special Constables Order (No. 2), 1940. [968]

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## METROPOLITAN POLICE STAFFS INJURIES ORDER NO. 1, 1940

*S. R. & O.*, 1940, No. 1070

*June 5, 1940*

Whereas under the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, both as originally enacted and also as applied by section five of the Metropolitan Police Courts Act, 1897, and as extended by the Superannuation (Various Services) Act, 1938, the Secretary of State is authorised by Order to make regulations respecting the grant to officers to whom these Acts apply of superannuation allowances, compensations, gratuities, or other allowances on the like principles and conditions as are for the time being in force with respect to persons in the Civil Service of the State ;

Now, therefore, I, the Right Honourable Sir John Anderson, one of His Majesty's Principal Secretaries of State, in pursuance of the said Acts and of all other powers enabling me in this behalf, do, by this Order, make the following regulations respecting the grant of gratuities and allowances to officers of the staff of the Metropolitan Police and of the Metropolitan Police Courts who are injured in the discharge of their duty.

1. In this Order, unless the context otherwise requires :—

- (1) The expression “ police service ” means service the salary in respect of which is paid out of the Metropolitan Police Fund,
  - (a) under the Commissioner of Police of the Metropolis, or under the Receiver for the Metropolitan Police District, otherwise than as a constable, or
  - (b) if appointed after the 6th August, 1897, as a member of the staff of the Metropolitan Police Courts ;
- (2) The expression “ established officer ” means a person employed in police service in a pensionable situation, and the expression “ unestablished officer ” a person employed in police service otherwise than as an established officer ;

- (3) The expression "emoluments" means emoluments which, if the recipient were an established officer, would be reckoned by the Secretary of State in the calculation of any superannuation benefits which might be granted to such officer ;
- (4) The expression "salary and emoluments" means annual salary and emoluments ;
- (5) The expression "pension" means an annual superannuation, compensation allowance or retiring allowance granted by the Secretary of State under the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, as originally enacted or as applied by section five of the Metropolitan Police Courts Act, 1897, the Superannuation (Various Services) Act, 1938, and the Orders made thereunder ;
- (6) The expression "an adopted child" means a child whom the deceased had, prior to the date of his injury, adopted within the meaning of any enactment for the time being in force in the locality in which he was domiciled at the date of his injury ;
- (7) The expression "workman" means a workman as defined by the Workmen's Compensation Act, 1925, and any statutory modification thereof who :—
  - (a) is injured in Great Britain, or
  - (b) is injured out of Great Britain in circumstances in which compensation is payable in respect of his injury under any Act relating to workmen's compensation for the time being in force in Great Britain, Northern Ireland, the Isle of Man or Eire.

[969]

2. This Order shall apply to any person (not being a workman as defined in this Order) employed in police service who is injured on or after the date of this Order :—

- (a) in the actual discharge of his duty ; and
- (b) without his own default ; and
- (c) by some injury specifically attributable to the nature of his duty,

otherwise than while carried, in pursuance of official instructions, in any aircraft or in one of His Majesty's submarines. [970]

3. The allowances or gratuities which may be granted to persons to whom this Order applies shall be according to the scales set out in clause four of this Order. Scale I shall apply to established officers, and Scale II to unestablished officers. [971]

#### SCALE I.—ESTABLISHED OFFICERS

4. Any person to whom Scale I applies and who retires by reason of his injury may, subject to the provisions of clause five of this Order, be granted an annual allowance, according to the degree of impairment of his capacity to contribute to his support, not exceeding the proportion specified in the following table of his salary and emoluments at the date of such injury, with the addition, in the case of an established officer who is not otherwise qualified for a pension, of one one-

sixtieth of such salary and emoluments for each completed year of his service.

Degree of Impairment.	Proportion of Salary and Emoluments.
Slightly impaired ... ..	Five sixtieths.
Impaired ... ..	Ten sixtieths.
Materially impaired ... ..	Fifteen sixtieths.
Totally destroyed ... ..	Twenty sixtieths.

[972]

#### SCALE II.—UNESTABLISHED OFFICERS.

Any person to whom Scale II applies who retires by reason of his injury and :—

- (a) whose capacity to contribute to his support is totally destroyed by his injury may, subject to the provisions of clause five of this Order, be granted an annual allowance not exceeding fifteen-sixtieths of his salary and emoluments at the date of such injury, with the addition of one one-sixtieth of such salary and emoluments for each completed year of his service ;
- (b) whose capacity to contribute to his support is not totally destroyed by his injury may, subject to the provisions of clause five of this Order, be granted a gratuity, according to the degree of impairment of his capacity to contribute to his support, not exceeding the proportion specified in the following table of his salary and emoluments at the date of such injury.

Degree of Impairment,.	Proportion of Salary and Emoluments.
Slightly impaired ... ..	One-half.
Impaired ... ..	The whole.
Materially impaired ... ..	One-and-a-half times.

In this paragraph the expression "service," in relation to an unestablished officer, means service which would be reckoned by the Secretary of State for the purposes of the Order of the Secretary of State of the 9th March, 1933, respecting the grant of compassionate gratuities to certain officers of the staff of the Metropolitan Police and Metropolitan Police Courts and to their dependants, and, in relation to an established officer, means service in an established capacity together with any service in an unestablished capacity which, in the case of an unestablished officer, would be reckoned as aforesaid. [973]

5.—(1) In any case in which a person to whom this Order applies retires wholly or partly on account of age or infirmity, but his capacity to contribute to his support is, in the opinion of the Secretary of State, impaired by reason of his injury, the Secretary of State may make such award as he may think reasonable, having regard to the Scale applicable to such person.

(2) If, for the purpose of assessing the amount of any allowance or gratuity to be granted to any person to whom this Order applies, the degree of permanent impairment of his capacity to contribute to his support is in doubt, the Secretary of State may make a provisional award to have effect until such time as the degree of permanent impairment can be finally determined.

(3) Where any person to whom this Order applies is unable to follow his employment by reason of his injury, but there is doubt whether or not he will retire by reason thereof, the Secretary of State in any case in which that person either is not eligible for sick pay or is eligible for sick pay at a rate which is less than the rate of annual allowance which might be awarded to him under this Order if he retires by reason of his injury may grant to him such provisional allowance as he may think reasonable, having regard to the Scale applicable to such person.

(4) An annual allowance granted to any person to whom this Order applies shall not, together with any superannuation allowance for which he is otherwise qualified, exceed five-sixths of his salary and emoluments at the date of the injury in respect of which such annual allowance is granted.

In this clause the expression "superannuation allowance" includes, in relation to any person, an annual compensation or retiring allowance granted by the Secretary of State under the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, as originally enacted or as applied by section five of the Metropolitan Police Courts Act, 1897, the Superannuation (Various Services) Act, 1938, and the Orders made thereunder, and the annuity value of any additional allowance granted under those Orders, the said value being computed in accordance with the tables for immediate life annuities framed under Part II of the Government Annuities Act, 1929, which were in force at the time of his retirement.

[974]

#### AWARDS TO WIDOWS.

6. If any person to whom this Order applies dies within seven years of the date of his injury and as a direct result thereof, there may be paid to his widow (if she was married to such person at the date when the injury was sustained), so long as she remains unmarried and of good character, an annual allowance, according as Scale I or Scale II applied to the deceased, not exceeding the proportion specified in column 2 of the following table of his salary and emoluments at the date of his injury, or the amount specified in column 3 of that table, whichever be the greater :—

Scale applicable to Deceased.	Proportion of Salary and Emoluments.	Minimum Allowance.
1	2	3
Scale I     ...     ...	Ten sixtieths.	£15
Scale II    ...     ...	Eight sixtieths.	£15

[975]

## AWARDS TO CHILDREN

7.—(1) If any person to whom Scale I applies dies within seven years of the date of his injury and as a direct result thereof, there may be paid, subject to the provisions of clause ten of this Order, in respect of each of his children, until such child attains the age of fifteen years, and so long, thereafter, up to the age of eighteen years, as the child remains at school, an annual allowance not exceeding the proportion ascertainable from the following table of the allowance which might have been granted to his widow under clause six of this Order.

Where the deceased leaves a widow to whom an award is granted.	One eighth.
Where the deceased does not leave a widow to whom an award is granted.	One quarter.
Where the deceased leaves a widow to whom an award is granted and who subsequently dies, as from the date of her death.	One quarter

(2) No allowance under this clause shall be payable at any time in respect of more than six children. [976]

8. Subject to the provisions of clause ten of this Order, there may be paid in respect of the children of any person to whom Scale II applies, and who dies within seven years of the date of his injury as a direct result thereof, a gratuity not exceeding the proportion of his salary and emoluments at the date of his injury mentioned in the second column of the following table, or the amount given in the third column of that table, whichever be the greater, multiplied by the aggregate (not exceeding 50) of the number of completed years in the period between the date of the death of the deceased and the date when each child attains the age of fifteen years, so however that the total gratuity shall not in any case be less than the sum mentioned in the fourth column of the said table.

1	2	3	4
Where the deceased leaves a widow to whom an award is granted.	One hundredth.	£1	£10
Where the deceased does not leave a widow to whom an award is granted.	One fiftieth.	£2	£20

Provided that where the deceased leaves a widow to whom an award has been granted and who dies while one or more of his children is or are under the age of fifteen years, there may be awarded in respect of such children an additional gratuity not exceeding one one-hundredth part of the annual salary and emoluments of the deceased at the date of his injury or £1, whichever be the greater, multiplied by the aggregate of the number of completed years between the date of the death of the widow and the date when each of such children attains the age of fifteen years, so however, that if the gratuity originally granted in respect of the children was arrived at on the basis of the over-riding

maximum of fifty years, the additional gratuity shall not exceed the amount calculated as aforesaid multiplied by a fraction in which the numerator is 50 and the denominator is the number of years on which the gratuity originally granted might have been calculated but for the over-riding maximum of 50 years. [977]

9. Except where otherwise provided, any annual allowance payable under clauses six, seven or eight of this Order shall be payable as from the date of the death of the deceased injured person, or, in the case of a posthumous child, as from the date of its birth. [978]

10. Nothing in clauses seven or eight of this Order shall permit :—

- (a) the grant of any allowance or gratuity in respect of any child unless, in the case of a legitimate child, that child was born not later than nine months after the date of the injury directly causing the death of the deceased, or, in the case of a step-child, illegitimate child or adopted child, that child was born or adopted before the date of such injury and was wholly or mainly dependent upon the deceased for support ; or
- (b) the grant of an allowance or gratuity in respect of a step-child, illegitimate child or adopted child at a higher rate than would have been payable in respect of such child if the deceased had left a widow to whom an allowance had been granted, unless the Secretary of State in any particular case otherwise directs. [979]

#### AWARDS TO DEPENDENT MOTHERS.

11. If any person to whom this Order applies dies within seven years of the date of his injury and as a direct result thereof, without leaving a widow eligible for the grant of an allowance under this Order, but leaving a mother wholly dependent upon him for her support, the award which might have been made to the widow under this Order may be made to the mother. [980]

12. Where an annual allowance is granted to a person under clause four of this Order calculated in part by reference to the number of years of his service, the part so calculated shall be in lieu of any gratuity under clause six of the Order of the Secretary of State dated 1st January, 1876, and clause one of the Order of the Secretary of State dated 9th March, 1933, but save as aforesaid, any award under this Order to any person, or to his widow or dependants, shall be in addition to any allowance or gratuity for which such person, his legal personal representatives or his dependants may be eligible under the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, as originally enacted or as applied by section five of the Metropolitan Police Courts Act, 1897, the Superannuation (Various Services) Act, 1938, and the Orders made thereunder. [981]

13. A person employed in police service who is subject to the Superannuation Scheme of the Federated Superannuation System for Universities shall, for the purposes of clause three of this Order, be deemed to be an established officer who is eligible for a pension in respect of his service, and any annual allowance granted to any such person under that clause, together with such sum as the Secretary of

State may determine to be the annual value, on a fair and reasonable basis, according to the circumstances, of the benefits of the policies or accumulated investments held in respect of him under the said Scheme, shall not exceed five-sixths of his salary and emoluments at the date of the injury in respect of which such annual allowance is granted. [982]

AWARDS TO INJURED WOMEN AND TO DEPENDANTS OF WOMEN WHO  
DIE AS THE RESULT OF AN INJURY

14. References in this Order to a widow or her husband shall, in their application to a woman employed in police service, be read as references to a widower or his wife, provided that nothing therein shall permit the grant of an award to a widower, or to children, in the case where the deceased leaves a widower, unless such widower was permanently incapacitated and was dependent upon the deceased at the date of her death. [983]

15. The Order of the Secretary of State of the 19th April, 1929, shall not apply to any person to whom this Order applies. [984]

16. This Order may be cited as the Metropolitan Police Staffs Injuries Order, No. 1, 1940. [985]

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## METROPOLITAN POLICE STAFFS INJURIES ORDER NO. 2, 1940

*S. R. & O., 1940, No. 1071*

*June 5, 1940*

Whereas under the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, both as originally enacted and also as applied by section five of the Metropolitan Police Courts Act, 1897, and as extended by the Superannuation (Various Services) Act, 1938, the Secretary of State is authorised by Order to make regulations respecting the grant to officers to whom these Acts apply of superannuation allowances, compensations, gratuities, or other allowances on the like principles and conditions as are for the time being in force with respect to persons in the Civil Service of the State;

Now, therefore, I, the Right Honourable Sir John Anderson, one of His Majesty's Principal Secretaries of State, in pursuance of the said Acts and of all other powers enabling me in this behalf, do, by this Order, make the following regulations respecting the grant of gratuities and allowances to officers of the staff of the Metropolitan Police and of the Metropolitan Police Courts who are injured in the discharge of their duty, while carried, in pursuance of official instructions, in any aircraft or in one of His Majesty's submarines.

1. In this Order, unless the context otherwise requires:—

(1) The expression "police reserve" means service the salary in respect of which is paid out of the Metropolitan Police Fund,

- (a) under the Commissioner of Police of the Metropolis, or under the Receiver for the Metropolitan Police District, otherwise than as a constable, or
  - (b) if appointed after the 6th August, 1897, as a member of the staff of the Metropolitan Police Courts ;
- (2) The expression " established officer " means a person employed in police service in a pensionable situation, and the expression " unestablished officer " a person employed in police service otherwise than as an established officer ;
  - (3) The expression " emoluments " means emoluments which, if the recipient were an established officer, would be reckoned by the Secretary of State in the calculation of any superannuation benefits which might be granted to such officer ;
  - (4) The expression " salary and emoluments " means annual salary and emoluments ;
  - (5) The expression " pension " means any annual superannuation compensation or retiring allowance granted by the Secretary of State under the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, as originally enacted or as applied by section five of the Metropolitan Police Courts Act, 1897, the Superannuation (Various Services) Act, 1938, and the Orders made thereunder ;
  - (6) The expression " an adopted child " means a child whom the deceased had, prior to the date of his injury, adopted within the meaning of any enactment for the time being in force in the locality in which he was domiciled at the date of his injury ;
  - (7) The expression " workman " means a workman as defined by the Workmen's Compensation Act, 1925, and any statutory modification thereof who :—
    - (a) is injured in Great Britain ; or
    - (b) is injured out of Great Britain in circumstances in which compensation is payable in respect of his injury under any Act relating to workmen's compensation for the time being in force in Great Britain, Northern Ireland, the Isle of Man or Eire.
- [986]**

2. This Order shall apply to any person (not being a workman as defined in this Order) employed in police service who is injured on or after the date of this Order :—

- (a) in the actual discharge of his duty ; and
- (b) without his own default ; and
- (c) by some injury specifically attributable to the nature of his duty, while carried, in pursuance of official instructions, in any aircraft or in one of His Majesty's submarines. **[987]**

3. Subject as hereinafter provided, any person to whom this Order applies and who retires by reason of his injury may be granted :—

- (a) if he is either an unestablished officer or an established officer who is not eligible for a pension in respect of his service, an annual allowance, according to the degree of impairment

of his capacity to contribute to his support, not exceeding the proportion specified in the following table of his salary and emoluments at the date of the injury ; and

- (b) if he is an established officer who is eligible for a pension in respect of his service, an annual allowance, according to the degree of impairment of his capacity to contribute to his support, not exceeding the proportion specified in the following table of the difference between his salary and emoluments at the date of the injury and the amount of any pension, including the annuity value (computed in accordance with the tables for immediate life annuities framed under Part II of the Government Annuities Act, 1929, which were in force at the time of his retirement) of any additional allowance, granted to him in respect of his service.

The Table above referred to. [988]

Where the injured person's capacity to contribute to his support is :—						Proportion.
Slightly impaired	...	...	...	...	...	One eighth.
Impaired	...	...	...	...	...	One quarter.
Materially impaired	...	...	...	...	...	Three eighths.
Totally destroyed	...	...	...	...	...	One half.

4.—(1) In any case in which a person to whom this Order applies retires wholly or partly on account of age or infirmity, but his capacity to contribute to his support is, in the opinion of the Secretary of State, impaired by reason of his injury, the Secretary of State may make such award as he may think reasonable.

(2) If, for the purpose of assessing the amount of any allowance to be granted to any person to whom this Order applies, the degree of permanent impairment of his capacity to contribute to his support is in doubt, the Secretary of State may make a provisional award, to have effect until such time as the degree of permanent impairment can be finally determined.

(3) Where any person to whom this Order applies is unable to follow his employment by reason of his injury, but there is doubt whether or not he will retire by reason thereof, the Secretary of State, in any case in which that person either is not eligible for sick pay or is eligible for sick pay at a rate which is less than the rate of annual allowance which might be awarded to him under this Order if he retires by reason of his injury, may grant to him such provisional allowance as he may think reasonable.

(4) An annual allowance granted to any person to whom this Order applies shall not together with any superannuation allowance for which he is otherwise qualified exceed five-sixths of his salary and emoluments at the date of the injury in respect of which such annual allowance is granted.

In this clause the expression "superannuation allowance" includes, in relation to any person, an annual compensation or retiring allowance granted by the Secretary of State under the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, as originally enacted or as applied

by section five of the Metropolitan Police Courts Act, 1897, the Superannuation (Various Services) Act, 1938, and the Orders made thereunder, and the annuity value of any additional allowance granted under those Orders, the said value being computed in accordance with the tables for immediate life annuities framed under Part II of the Government Annuities Act, 1929, which were in force at the time of his retirement. [989]

5.—(1) If any person to whom this Order applies dies within seven years of the date of his injury and as a direct result thereof, there may be paid :—

- (a) to his widow (if she was married to him at the date of his injury), so long as she remains unmarried and of good character ;
- (b) to his mother, if wholly dependent upon him for her support at the date of his death ; and
- (c) in respect of each of his children who, in the case of legitimate children, were born not later than nine months after the date of his injury, and in the case of step-children, illegitimate children or adopted children, were wholly or mainly dependent upon the deceased for support and were born or adopted before the date of his injury, an annual allowance, payable as from the date of the death of the deceased or, in the case of a posthumous child, from the date of its birth, not exceeding, as the case may be, the proportion, calculated in accordance with the table, of the salary and emoluments of the deceased at the date of his injury.

	Proportion of salary and emoluments.
The widow ... ..	One fourth.
Each child, where the deceased leaves a widow to whom an award is granted.	One twenty-fourth.
Each child, where the deceased does not leave a widow to whom an award is granted.	One twelfth.
The dependent mother, where the deceased leaves a widow, but no children.	One twenty-fourth.
The dependent mother, where the deceased leaves a child or children, but no widow.	One twelfth.
The dependent mother, where the deceased leaves neither a widow nor any children.	One fourth.

Provided that :—

- (a) where the deceased leaves a widow to whom an award has been granted and who dies during the continuance of an allowance in respect of any child, the rate of allowance in respect of such child shall, as from the date of the death of the widow, be double the rate which would otherwise be payable under this clause in respect of such child ;
- (b) the allowance in respect of any child shall cease to be payable when he or she attains the age of eighteen years ; and

- (c) the aggregate of the allowances payable in respect of children shall not exceed one-fourth of the salary and emoluments of the deceased at the date of the injury.

(2) Nothing in this clause shall permit the grant of any allowance in respect of a step-child, illegitimate child or adopted child at a higher rate than one twenty-fourth of the salary and emoluments of the deceased injured person at the date of his injury, unless the Secretary of State in any particular case otherwise directs. [990]

6. Any award under this Order to any person, or to his widow or dependents, shall be in addition to any allowance or gratuity for which such person, his legal personal representatives or dependents may be eligible under the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, as originally enacted or as applied by section five of the Metropolitan Police Courts Act, 1897, the Superannuation (Various Services) Act, 1938, and the Orders made thereunder. [991]

7. A person employed in police service who is subject to the Superannuation Scheme of the Federated Superannuation System for Universities shall, for the purposes of clause three of this Order, be deemed to be an established officer who is eligible for a pension in respect of his service ; and

- (a) any annual allowance granted to any such person under that clause, together with such sum as the Secretary of State may determine to be the annual value on a fair and reasonable basis, according to the circumstances, of the benefits of the policies or accumulated investments held in respect of him under the said Scheme, shall not exceed five-sixths of the salary and emoluments of his office at the date of the injury in respect of which such annual allowance is granted ;
- (b) any such person who has been employed for not less than ten years in police service under the said Scheme shall, for the purpose of calculating an award to him under this Order, be deemed to be eligible for a pension in respect of his service of such an amount as the Secretary of State may determine to be the part of such annual value as is fairly attributable to the contributions paid in respect of his police service. [992]

8. References in this Order to a widow or her husband shall, in their application to a woman employed in police service, be read as references to a widower or his wife, provided that nothing herein shall permit the grant of an annual allowance to a widower, or to children, in the case where the deceased leaves a widower, unless such widower was permanently incapacitated and was dependent upon the deceased at the date of her death. [993]

9. The Order of the Secretary of State of the 19th April, 1929, shall not apply to any person to whom this Order applies. [994]

10. This Order may be cited as the Metropolitan Police Staffs Injuries Order No. 2, 1940. [995]

## METROPOLITAN POLICE STAFFS INJURIES ORDER NO. 3, 1940

*S. R. & O., 1940, No. 1072*

*June 5, 1940*

Whereas under the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, both as originally enacted and also as applied by section five of the Metropolitan Police Courts Act, 1897, and as extended by the Superannuation (Various Services) Act, 1938, the Secretary of State is authorised by Order to make regulations respecting the grant to officers to whom these Acts apply of superannuation allowances, compensations, gratuities, or other allowances on the like principles and conditions as are for the time being in force with respect to persons in the Civil Service of the State ;

Now, therefore, I, the Right Honourable Sir John Anderson, one of His Majesty's Principal Secretaries of State, in pursuance of the said Acts and of all other powers enabling me in this behalf, do, by this Order, make the following regulations :—

1. In this Order, unless the context otherwise requires, the following expressions have the meanings hereinafter respectively assigned to them, that is to say :

“ The No. 1 Order ” means the Metropolitan Police Staffs Injuries Order No. 1, 1940 ;

“ The No. 2 Order ” means the Metropolitan Police Staffs Injuries Order No. 2, 1940 ;

“ The Principal Orders ” means the No. 1 Order and the No. 2 Order ;

“ The Scheme ” means the Scheme made by the Minister of Pensions with the consent of the Treasury under section 1 of the Personal Injuries (Emergency Provisions) Act, 1939, and for the time being in force ;

“ civil defence organisation ” means any organisation established for civil defence purposes which is declared by the Scheme to be a civil defence organisation for the purpose of the Personal Injuries (Emergency Provisions) Act, 1939, and the Scheme ;

“ civil defence volunteer ”, in relation to an injury, means a person certified by a responsible officer of a civil defence organisation to have been a member of that organisation at the time when the injury was sustained ;

the expressions “ police service ”, “ emoluments ”, “ salary and emoluments ” and “ workmen ” have the same meanings as in the Principal Orders ;

“ period of the present emergency ” means the period beginning with the 1st day of September, 1939, and ending with such date as His Majesty may by Order in Council declare to be the date on which the emergency which was the occasion for the passing of the Personal Injuries (Emergency Provisions) Act, 1939, came to an end ;

“ war entrant ” means any person who became during the period of the present emergency employed in police service, not being a workman or a person recruited outside the United Kingdom ;

“war injuries” means physical injuries

(a) caused by

- (i) the discharge of any missile (including liquids and gas); or
- (ii) the use of any weapon, explosive or other noxious thing; or
- (iii) the doing of any other injurious act; either by the enemy or in combating the enemy or in repelling an imagined attack by the enemy; or

(b) caused by the impact on any person or property of any enemy aircraft, or any aircraft belonging to, or held by any person on behalf of or for the benefit of, His Majesty or any allied power, or any part of, or anything dropped from, any such aircraft;

“war service injury”, in relation to a civil defence volunteer, means any physical injury which the Minister of Pensions certifies to have been shown to his satisfaction to have arisen out of and in the course of the performance by the volunteer of his duties as a member of the civil defence organisation to which he belonged at the time when the injury was sustained, and (except in the case of a war injury) not to have arisen out of and in the course of his employment in any other capacity. [996]

2. Neither of the Principal Orders shall apply to a war entrant who sustains a war injury or who, being a civil defence volunteer, sustains a war service injury. [997]

3.—(1) The amount of the annual allowance or gratuity which may be granted under the Principal Orders as amended by this Order to a war entrant who retires by reason of an injury sustained during the period of the present emergency or who, having sustained an injury during the said period, retires wholly or partly on account of age or infirmity shall not exceed, in the case of an annual allowance, the annual value or, in the case of a gratuity, the gratuity value of the pensions and allowances which might have been awarded to, or to the wife of, such war entrant under Part III of the Scheme in respect of the injury if the conditions for such an award had been fulfilled.

(2) The amount of the annual allowances or gratuity which may be granted under the Principal Orders as amended by this Order on the death of a war entrant within seven years after the date of the injury and as a direct result thereof to his widow or mother or in respect of his children shall not, if the injury was sustained during the period of the present emergency, exceed—

- (a) in the case of annual allowances to his widow or mother or in respect of his children, the annual value of the pensions which might have been awarded to such relatives under Part III of the Scheme in respect of his death if the conditions for such an award had been fulfilled;
- (b) in the case of a gratuity in respect of his children, the gratuity value of the pensions which might have been so awarded to his children; and
- (c) in the case of an annual allowance to his widow or mother and a gratuity in respect of his children the aggregate of the annual

value of the pensions which might have been so awarded to his widow or mother and the gratuity value of the pensions which might have been so awarded to his children. [998]

4.—(1) The annual allowance or gratuity which may be granted under the Principal Orders to a person employed in police service (not being a workman or a war entrant) who—

- (a) is ordinarily resident in the United Kingdom ; and
- (b) suffers a war injury or, being a civil defence volunteer, a war service injury outside the United Kingdom ; and
- (c) is at the date of the injury in receipt of salary and emoluments not exceeding three hundred and fifty pounds a year ; and
- (d) retires by reason of such an injury (or, having sustained such an injury, retires wholly or partly on account of age or infirmity)

may be of an amount not exceeding, in the case of an annual allowance, the annual value or, in the case of a gratuity, the gratuity value, of the pensions and allowances which might have been awarded to, or to the wife of, such person under Part III of the Scheme in respect of the injury, if the conditions for such an award had been fulfilled in cases where the amount of the annual value or of the gratuity value exceeds the amount of the annual allowances or of the gratuity as the case may be which may be granted under the Principal Orders.

(2) The amount of the annual allowances or gratuity which may be granted under the Principal Orders on the death of such a person as aforesaid within seven years after the date of the injury and as a direct result thereof to his widow or mother or in respect of his children may, if the injury was sustained during the period of the present emergency, be of an amount not exceeding—

- (a) in the case of annual allowances to his widow or mother or in respect of his children, the annual value of the pensions which might have been awarded to such relatives under Part III of the Schemes in respect of his death if the conditions for such an award had been fulfilled ;
- (b) in the case of a gratuity in respect of his children, the gratuity value of the pensions which might have been so awarded to his children ; and
- (c) in the case of an annual allowance to his widow or mother and a gratuity in respect of his children the aggregate of the annual value of the pensions which might have been so awarded to his widow or mother and the gratuity value of the pensions which might have been so awarded to his children

in cases where the amount of the annual value or of the gratuity value or of the annual value and the gratuity value exceeds the amount of the annual allowances or of the gratuity or of the annual allowance and the gratuity, as the case may be, which may be granted under the Principal Orders. [999]

5. For the purpose of the last two foregoing clauses, the “ annual value ” of the pension or allowance shall be the total amount which would be paid during a year in respect of that pension or allowance and the “ gratuity value ” of a pension or allowance shall be such capital sum as the Government Actuary estimates to be the actuarial equivalent to that pension or allowance. [1000]

6. If a person, to whom the No. 2 Order as amended by paragraph 2 of this Order applies, retires by reason of a war injury which is not a war service injury, or, having sustained such a war injury, retires wholly or partly on account of age or infirmity, the No. 2 Order shall have effect in relation to that person as if he were a person to whom the No. 1 Order applied. [1001]

7. This Order may be cited as the Metropolitan Police Staffs Injuries No. 3 Order, 1940. [1002]

\* \* \* \* \*

## POLICE REGULATIONS, 1940

S. R. & O., 1940, No. 1740

September 14, 1940

I, the Right Honourable Sir John Anderson, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred upon me by Section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police Regulations \* :—

1—(a) The proviso to paragraph (1) of Regulation 18 and paragraph (2) of Regulation 18 are hereby revoked.

(b) In the proviso to paragraph (2) of Regulation 20, the words “to appeal against such decision” shall be omitted.

(c) After Regulation 20 there shall be inserted the following Regulation :—

“20A. The following provisions shall have effect with respect to disciplinary proceedings before the Chief Officer of Police and also to proceedings before the Watch Committee :

(1) If the accused so desires, he shall be allowed to have another serving member of the force, selected by himself, to assist him in presenting his case.

(2) If the accused absconds or refuses or neglects without good and sufficient cause to attend the proceedings at the time and place appointed, or is serving a sentence of imprisonment or penal servitude, the case may be decided in his absence.”

(d) Regulation 20A shall be renumbered as Regulation 20B. [1003]

2.—(a) The word “and” after proviso (ii) to paragraph (1) of Regulation 28 shall be omitted, and the following proviso shall be inserted after proviso (iii) :—

“(iv) During the period of the present emergency a member of a police force who has not passed the qualifying examinations may be promoted if the Chief Officer of Police is satisfied that he is the best qualified for the post.”

(b) At the end of paragraph (4) of Regulation 29 the following proviso shall be inserted :—

“Provided that it shall not be obligatory to hold the examinations during the period of the present emergency.” [1004]

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\* Words altered or added are printed in italics.

3. After Regulation 64 there shall be inserted the following Regulations :—

*“ Supplementary Allowance.*

64A. *As from the 1st July, 1940, there shall be paid to every constable a supplementary allowance of 5s. a week.”*

*“ War Duty Allowance.*

64B. *As from the 1st July, 1940, there shall be paid to every constable a war duty allowance of 3s. a week and to every sergeant (including station sergeants) a war duty allowance of 4s. a week.”*  
[1005]

4. In Regulation 74 before the words “ an inspector ” there shall be inserted the words “ a station sergeant, sub-inspector or inspector or a station sergeant or sub-inspector is required to perform the duties of . . . ” and after the words “ his ordinary rate of pay ” there shall be inserted the words “ together with the supplementary allowance paid under Regulation 64A.” [1006]

5. After Regulation 74 there shall be inserted the following Regulation :—

*“ Temporary Appointments.*

74A.—(1) *During the period of the present emergency a member of a police force who is required to perform the duties of a higher rank may be appointed temporarily to that rank.*

(2) *The pay of a member of a police force so appointed temporarily to a higher rank shall be the pay to which he would from time to time have been entitled had he not been so appointed.*

(3) *A member of a police force so appointed shall be granted an allowance in addition to his pay at a rate equal to the difference between his ordinary rate of pay together with the supplementary allowance paid under Regulation 64A and the rate of pay which he would from time to time have received if he had been promoted to the rank which he temporarily holds at the date when the appointment was made and shall receive the allowances appropriate to that rank.*

(4) *If, while holding temporary rank under this Regulation, a member of a police force is appointed substantively to that rank, he shall, for purposes of increments, be deemed to have held the substantive rank as from the date on which he was appointed to the temporary rank.*

(5) *This Regulation shall not apply to a case where a Deputy Chief Constable performs the duties of Chief Constable.”* [1007]

6. In Regulation 88 (3) the words “ or registered dentist ” shall be inserted after the words “ other medical practitioner ”. [1008]

7. In the proviso to Regulation 89 after the words “ own default ” there shall be inserted the words “ or by reason of a war injury as defined in subsection (1) of section 8 of the Personal Injuries (Emergency Provisions) Act, 1939 ”, and at the end of Regulation 89 there shall be inserted the following paragraph :—

*“ (2) Where a member of a police force is in receipt of an injury allowance under a scheme made under the Personal Injuries*

(*Emergency Provisions*) Act, 1939, the amount of the allowance may be deducted from his pay in respect of the period during which he is in receipt of the allowance." [1009]

8. After Regulation 89A, there shall be inserted the following Regulation :—

" 90. For the purpose of these Regulations the expression 'period of the present emergency' shall have the same meaning as in the Police and Firemen (War Service) Act, 1939." [1010]

\* \* \* \* \*

## POLICE (WOMEN) REGULATIONS, 1940

S. R. & O., 1940, No. 1705

September 14, 1940

I, the Right Honourable Sir John Anderson, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred upon me by Section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police (Women) Regulations \* :—

1.—(a) The proviso to paragraph (1) of Regulation 12 and paragraph (2) of Regulation 12 are hereby revoked.

(b) In the proviso to paragraph (2) of Regulation 14 the words "to appeal against such decision" shall be omitted.

(c) After Regulation 14 there shall be inserted the following Regulation :—

" 14A. The following provisions shall have effect with respect to disciplinary proceedings before the Chief Officer of Police and also to proceedings before the Watch Committee :

(1) If the accused so desires, she shall be allowed to have another serving member of the force, selected by herself to assist her in presenting her case.

(2) If the accused absconds or refuses or neglects without good and sufficient cause to attend the proceedings at the time and place appointed, or is serving a sentence of imprisonment or penal servitude, the case may be decided in her absence."

(d) Regulation 14A shall be renumbered as Regulation 14B. [1011]

2.—(a) "(i)" shall be inserted after the word "that" in the first line of the proviso to Regulation 21, the words "*provided also that*" shall be omitted after the words "to be employed" and "(ii)" shall be inserted, and the following words shall be added after the word "standard" "*and (iii) during the period of the present emergency a woman member of a police force who has not passed the qualifying examinations may be promoted if the Chief Officer is satisfied that she is the best qualified for the post.*"

\* Words altered or added are printed in italics.

(b) At the end of paragraph (4) of Regulation 22 the following proviso shall be inserted :—

*“ Provided that it shall not be obligatory to hold the examinations during the period of the present emergency.”* [1012]

3. After Regulation 56 there shall be inserted the following Regulations :—

*“ Supplementary Allowance.*

*56A. As from the 1st July, 1940, there shall be paid to every woman constable a supplementary allowance of 4s. a week.”*

*“ War Duty Allowance.*

*56B. As from the 1st July, 1940, there shall be paid to every woman constable a war duty allowance of 2s. 6d. a week and to every woman sergeant a war duty allowance of 3s. a week.”* [1013]

4. In Regulation 64 after the words “ her ordinary rate of pay ” there shall be inserted the words “ together with the supplementary allowance paid under Regulation 56A ”. [1014]

5. After Regulation 64 there shall be inserted the following Regulation :—

*“ Temporary Appointments.*

*64A.—(1) During the period of the present emergency a woman member of a police force who is required to perform the duties of a higher rank may be appointed temporarily to that rank.*

*(2) The pay of a woman member of a police force so appointed temporarily to a higher rank shall be the pay to which she would from time to time have been entitled had she not been so appointed.*

*(3) A woman member of a police force so appointed shall be granted an allowance in addition to her pay at a rate equal to the difference between her ordinary rate of pay together with the supplementary allowance paid under Regulation 56A and the rate of pay which she would from time to time have received if she had been promoted to the rank which she temporarily holds at the date when the appointment was made and shall receive the allowances appropriate to that rank.*

*(4) If, while holding temporary rank under this Regulation a woman member of a police force is appointed substantively to that rank, she shall, for purposes of increments, be deemed to have held the substantive rank from the date on which she was appointed to the temporary rank.”* [1015]

6. In Regulation 79 (3) the words “ or registered dentist ” shall be inserted after the words “ other medical practitioner ”. [1016]

7. In the proviso to Regulation 80 after the words “ own default ” there shall be inserted the words “ or by reason of a war injury as defined in subsection (1) of section 8 of the Personal Injuries (Emergency Provisions) Act, 1939 ”, and at the end of Regulation 80 there shall be inserted the following paragraph :—

*“ (2) Where a woman member of a police force is in receipt of an injury allowance under a scheme made under the Personal Injuries (Emergency Provisions) Act, 1939, the amount of the allowance may be deducted from her pay in respect of the period during which she is in receipt of the allowance.”* [1017]

8. After Regulation 81, there shall be inserted the following Regulation :—

“ 82. For the purpose of these Regulations the expression ‘ period of the present emergency ’ shall have the same meaning as in the Police and Firemen (War Service) Act, 1939.” [1018]

\* \* \* \* \*

## PRESERVATIVES

See FOOD AND DRUGS.

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## STATUTES

### OLD AGE AND WIDOWS' PENSIONS ACT, 1940

(3 & 4 GEO. 6, c. 13)

#### ARRANGEMENT OF SECTIONS

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*An Act to reduce to sixty years the age at which women may become entitled to old age pensions under the enactments relating to widows', orphans' and old age contributory pensions; to provide for increasing certain contributions payable under those enactments; to make provision for supplementing, in cases of need, pensions payable under the said enactments to widows who have attained the age of sixty years, and old age pensions, and for making consequential adjustments in respect of the General Exchequer Grants payable to local authorities which are public assistance authorities; and for purposes connected with the matters aforesaid. [1919]* [21st March, 1940.]

## PART I

## WOMEN'S CONTRIBUTORY PENSIONS

**1. Reduction of age at which old age pensions become payable and adjustment of contributions.**—(1) Subject to the provisions of this Part of this Act, the age at which an old age pension under the Contributory Pensions Acts may become payable to a woman, whether as an insured woman or as the wife of an insured man who has attained the age of sixty-five, shall be reduced to sixty.

For the existing provisions, see the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, s. 1 (29 Statutes 1200). The contributory old age pension was payable at 65 under the former provision.

(2) An old age pension shall not, by virtue of the provisions of this section, accrue in respect of any period before the commencement of this Part of this Act.

Thus those who attained to 60 years of age will be entitled to the pension as from July 1, 1940 (see s. 8 (2), *post*).

(3) For the purpose of making further provision towards the cost of pensions payable under the Contributory Pensions Acts—

- (a) the ordinary rates of contributions payable under the principal Act shall be increased, in the case of contributions payable in respect of men who have not attained the age of sixty-five by twopence per week, and in the case of contributions payable in respect of women who have not attained the age of sixty by threepence per week, and of the said increases one penny per week shall be payable by the employer and the remainder by the employed person ;
- (b) the rates of the contributions payable by virtue of paragraph (b) of subsection (1) of section twelve of the principal Act shall be increased, in the case of contributions payable in respect of men who have attained the age of sixty-five by one penny, and in the case of contributions payable in respect of women who have attained the age of sixty by one penny ; and
- (c) the rate of the contribution payable under subsection (1) of section twenty of the principal Act shall be increased by twopence.

As to rates of contribution, see s. 12 and Schedule I to the Act of 1936 (29 Statutes 1208, 1235), which is "the principal Act".

(4) Contributions shall cease to be payable by virtue of paragraphs (a) (c) and (d) of subsection (1) of section twelve of the principal Act by or in respect of women who have attained the age of sixty.

(5) For the purpose of giving effect to the foregoing provisions of this section, the provisions of the Contributory Pensions Acts specified in the first column of the First Schedule to this Act shall have effect subject to the amendments set out in the second column of that Schedule.

(6) The foregoing provisions of this section (including the amendments set out in the second column of the First Schedule to this Act) shall, except so far as they relate to the rates of the contributions payable by virtue of paragraph (b) of subsection (1) of section twelve of the principal Act, not apply in relation to women who have attained the age of sixty-five before the commencement of this Part of this Act, or in relation to special voluntary contributors, or in relation to the wife of any such contributor unless she is herself insured otherwise than as such a contributor. [1020]

**2. Consequential amendments of enactments relating to unemployment insurance and national health insurance.**—References in the Unemployment Insurance Acts, 1935 to 1939, and the National Health Insurance Acts, 1936 to 1939, to the age of sixty-five, except any reference relating to service which would be contributory service within the meaning of the enactments relating to teachers' superannuation, shall, in relation to women, be construed as references to the age of sixty. [1021]

**3. Transitional provisions.**—(1) Regulations may be made by the Minister under the principal Act for the purpose of avoiding hardship which might otherwise be occasioned during the transitional period to women who, immediately before the commencement of this Part of this Act, were insured under the Contributory Pensions Acts or the National

Health Insurance Acts, 1936 to 1939, by reason of their being ineligible for benefits for which they might have been eligible under those Acts as they were in force before the commencement of this Part of this Act, and such regulations may, in particular, provide that such women may, after attaining the age of sixty and, until they attain the age of sixty-five, be, subject to such conditions as may be prescribed by the regulations, entitled during the period aforesaid—

- (a) in the case of women insured under the Contributory Pensions Acts to continue to qualify for old age pensions at any rate payable under those Acts ;
- (b) in the case of women insured under the National Health Insurance Acts, 1936 to 1939, to payments at the rate of ten shillings a week (hereinafter referred to as sickness payments) in respect of any periods in which they may before old age pensions begin to accrue to them be rendered incapable of work by some specific disease or bodily or mental disablement.

For the power of the Minister to make Regulations, see s. 32 of the principal Act (29 Statutes 1225).

(2) Regulations may be made by the Minister under the principal Act for the purpose of avoiding hardship which might otherwise be occasioned during the transitional period to widows who, immediately before the commencement of this Part of this Act, were insured under the National Health Insurance Acts, 1936 to 1939, and entitled to widows' pensions, by reason of their being ineligible for benefits for which they might have been eligible under those Acts, as they were in force before the commencement of this Part of this Act, and such regulations may, in particular, provide that such widows may, after attaining the age of sixty and until they attain the age of sixty-five, be, subject to such conditions as may be prescribed by the regulations, entitled during the period aforesaid to payments at the rate of ten shillings a week (hereinafter referred to as sickness payments) in respect of any periods in which they may be rendered incapable of work by some specific disease or bodily or mental disablement.

(3) Regulations may be made by the National Health Insurance Joint Committee under the National Health Insurance Acts, 1936 to 1939, with respect to the administration of sickness payments, and such regulations may, in particular, make provision as to the bodies by or through which such payments are to be administered, as to the keeping of accounts of sums expended on such payments and the determination of the amounts chargeable in respect of expenses of such bodies as aforesaid in connection with the administration of such payments, and as to the audit of such accounts and expenses, and regulations so made may apply any of the provisions of the said Acts, with or without modifications.

(4) Women who, immediately before the commencement of this Part of this Act, were insured contributors under the Unemployment Insurance Acts, 1935 to 1939, or under the enactments relating to unemployment insurance in force in Northern Ireland shall, after attaining the age of sixty and before they attain the age of sixty-five be entitled during the transitional period to such benefit and during such periods as they would, if this Act had not been passed, have been entitled to under the Unemployment Insurance Acts, 1935 to 1939, by virtue of contributions paid before they attained the age of sixty,

or before the commencement of this Part of this Act, whichever is the later.

(5) On the application of the body charged with the administration of any special scheme made under the Unemployment Insurance Acts, 1935 to 1939, the Minister of Labour may by order vary or amend the provisions of the scheme in such manner as may be necessary to secure that during the transitional period women who immediately before the commencement of this Part of this Act were persons to whom the scheme applied shall after attaining the age of sixty and before they attain the age of sixty-five, be entitled to benefits under the scheme not less favourable than those provided with respect to insured contributors by the provisions of the last foregoing subsection.

(6) In this section the expression "transitional period" means the period beginning with the commencement of this Part of this Act and ending with the thirtieth day of June nineteen hundred and forty-five. [1022]

**4. Adjustment of reserves of approved societies.**—(1) The Government Actuary shall estimate and certify, in respect of each approved society having women among its members, the amount by which the liabilities of the society in respect of benefits other than additional benefits are reduced by reason of the passing of this Part of this Act, and the amount specified in the certificate shall thereupon be debited in the account of the society in the National Health Insurance Fund, the Scottish National Health Insurance Fund, or the Welsh National Health Insurance Fund, as the case may be.

(2) Of the funds of every society set free by the reduction of liabilities aforesaid, such amount as may be certified by the Government Actuary to be represented by outstanding reserve values shall be discharged by cancelling outstanding reserve values to that amount, and the balance thereof shall be carried to a fund under the control of the National Health Insurance Joint Committee to be called the Special Suspense Fund, and may, if the Minister so directs, notwithstanding anything contained in section one hundred and forty-one of the National Health Insurance Act, 1936, be discharged out of the sums standing to the credit of the society in the Investment Account.

(3) This section shall apply in relation to the Deposit Contributors Insurance Section and the Navy, Army and Air Force Insurance Fund respectively as if they were approved societies.

(4) There shall be debited to the Special Suspense Fund any sums expended on sickness payments under this Part of this Act and such amounts as may be determined, in accordance with the regulations made by the National Health Insurance Joint Committee, to be the amounts chargeable in respect of expenses in connection with the administration of such payments.

(5) The residue of the sums standing to the credit of the Special Suspense Fund shall be dealt with in such manner as Parliament may hereafter determine.

(6) If provision is made by any enactment of the Parliament of Northern Ireland appearing to His Majesty substantially to correspond to the provisions of this Part of this Act, His Majesty may by Order in Council make provision for the payment into the Special Suspense Fund of such sums as may be provided by the said enactment and

direct that the provisions of this section relating to the payment out of that fund of sums expended on sickness payments and expenses in connection with the administration of such payments shall, with or without modifications, extend to Northern Ireland. [1023]

See the Old Age and Widows' Pensions (Extension of Enactments to Northern Ireland) Order, 1940 (S. R. & O., 1940, No. 1120) made under sub-s. (6) of this section.

**5. Expenses under Part I of Act.**—Any amounts by which the sums payable into the Treasury Pensions Account under subsection (3) of section fourteen of the principal Act are increased by reason of the passing of this Part of this Act shall be defrayed out of moneys provided by Parliament. [1024]

The Treasury Pensions Account is established by s. 14 of the principal Act (29 Statutes 1210).

**6. Power of Northern Ireland Parliament to amend s. 14 (3) (a) of 2 & 3 Geo. 6, c. 84.**—Such of the provisions of paragraph (a) of subsection (3) of section fourteen of the National Health Insurance and Contributory Pensions (Emergency Provisions) Act, 1939, as relate to the payment of additional amounts in respect of pensions shall, so far as those provisions extend to matters with respect to which the Parliament of Northern Ireland has power to make laws, be treated for the purposes of section six of the Government of Ireland Act, 1920, as an enactment passed before the appointed day. [1025]

**7. Interpretation of Part I.**—In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them that is to say—

“Contributory Pensions Acts” means the Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 to 1939;

“the principal Act” means the Widows', Orphans' and Old Age Contributory Pensions Act, 1936. [1026]

The “Contributory Pensions Acts” are the Widows', Orphans' and Old Age Contributory Pensions Act, 1936 (the principal Act) (29 Statutes 1198), the Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937 (30 Statutes 997), and Part III and so much of Part I as relates to insurance within the meaning of the Pensions Acts of the National Health Insurance and Contributory Pensions (Emergency Provisions) Act, 1939 (32 Statutes 1076).

**8. Construction, citation and commencement of Part I.**—(1) This Part of this Act shall be construed as one with the Contributory Pensions Acts and may together with those Acts be cited as the Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 to 1940.

(2) This Part of this Act shall come into operation on the first day of July nineteen hundred and forty. [1027]

## PART II

### SUPPLEMENTARY PENSIONS

**9. Supplementation of old age pensions and widows' pensions.**—(1) Subject to the provisions of this Part of this Act, a person (not being a blind person) shall be eligible for a supplementary pension under this Part of this Act who is a person entitled to receive weekly payments on account of an old age pension, or a person who has attained the age of sixty and is entitled to receive weekly payments on account of a widow's pension.

(2) Where it is proved in the prescribed manner that any person so eligible as aforesaid is in need of a supplementary pension, there

or before the commencement of this Part of this Act, whichever is the later.

(5) On the application of the body charged with the administration of any special scheme made under the Unemployment Insurance Acts, 1935 to 1939, the Minister of Labour may by order vary or amend the provisions of the scheme in such manner as may be necessary to secure that during the transitional period women who immediately before the commencement of this Part of this Act were persons to whom the scheme applied shall after attaining the age of sixty and before they attain the age of sixty-five, be entitled to benefits under the scheme not less favourable than those provided with respect to insured contributors by the provisions of the last foregoing subsection.

(6) In this section the expression "transitional period" means the period beginning with the commencement of this Part of this Act and ending with the thirtieth day of June nineteen hundred and forty-five. [1022]

**4. Adjustment of reserves of approved societies.**—(1) The Government Actuary shall estimate and certify, in respect of each approved society having women among its members, the amount by which the liabilities of the society in respect of benefits other than additional benefits are reduced by reason of the passing of this Part of this Act, and the amount specified in the certificate shall thereupon be debited in the account of the society in the National Health Insurance Fund, the Scottish National Health Insurance Fund, or the Welsh National Health Insurance Fund, as the case may be.

(2) Of the funds of every society set free by the reduction of liabilities aforesaid, such amount as may be certified by the Government Actuary to be represented by outstanding reserve values shall be discharged by cancelling outstanding reserve values to that amount, and the balance thereof shall be carried to a fund under the control of the National Health Insurance Joint Committee to be called the Special Suspense Fund, and may, if the Minister so directs, notwithstanding anything contained in section one hundred and forty-one of the National Health Insurance Act, 1936, be discharged out of the sums standing to the credit of the society in the Investment Account.

(3) This section shall apply in relation to the Deposit Contributors Insurance Section and the Navy, Army and Air Force Insurance Fund respectively as if they were approved societies.

(4) There shall be debited to the Special Suspense Fund any sums expended on sickness payments under this Part of this Act and such amounts as may be determined, in accordance with the regulations made by the National Health Insurance Joint Committee, to be the amounts chargeable in respect of expenses in connection with the administration of such payments.

(5) The residue of the sums standing to the credit of the Special Suspense Fund shall be dealt with in such manner as Parliament may hereafter determine.

(6) If provision is made by any enactment of the Parliament of Northern Ireland appearing to His Majesty substantially to correspond to the provisions of this Part of this Act, His Majesty may by Order in Council make provision for the payment into the Special Suspense Fund of such sums as may be provided by the said enactment and

direct that the provisions of this section relating to the payment out of that fund of sums expended on sickness payments and expenses in connection with the administration of such payments shall, with or without modifications, extend to Northern Ireland. [1023]

See the Old Age and Widows' Pensions (Extension of Enactments to Northern Ireland) Order, 1940 (S. R. & O., 1940, No. 1120) made under sub-s. (6) of this section.

**5. Expenses under Part I of Act.**—Any amounts by which the sums payable into the Treasury Pensions Account under subsection (3) of section fourteen of the principal Act are increased by reason of the passing of this Part of this Act shall be defrayed out of moneys provided by Parliament. [1024]

The Treasury Pensions Account is established by s. 14 of the principal Act (29 Statutes 1210).

**6. Power of Northern Ireland Parliament to amend s. 14 (3) (a) of 2 & 3 Geo. 6, c. 84.**—Such of the provisions of paragraph (a) of subsection (3) of section fourteen of the National Health Insurance and Contributory Pensions (Emergency Provisions) Act, 1939, as relate to the payment of additional amounts in respect of pensions shall, so far as those provisions extend to matters with respect to which the Parliament of Northern Ireland has power to make laws, be treated for the purposes of section six of the Government of Ireland Act, 1920, as an enactment passed before the appointed day. [1025]

**7. Interpretation of Part I.**—In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them that is to say—

“Contributory Pensions Acts” means the Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 to 1939;

“the principal Act” means the Widows', Orphans' and Old Age Contributory Pensions Act, 1936. [1026]

The “Contributory Pensions Acts” are the Widows', Orphans' and Old Age Contributory Pensions Act, 1936 (the principal Act) (29 Statutes 1198), the Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937 (30 Statutes 997), and Part III and so much of Part I as relates to insurance within the meaning of the Pensions Acts of the National Health Insurance and Contributory Pensions (Emergency Provisions) Act, 1939 (32 Statutes 1076).

**8. Construction, citation and commencement of Part I.**—(1) This Part of this Act shall be construed as one with the Contributory Pensions Acts and may together with those Acts be cited as the Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 to 1940.

(2) This Part of this Act shall come into operation on the first day of July nineteen hundred and forty. [1027]

## PART II

### SUPPLEMENTARY PENSIONS

**9. Supplementation of old age pensions and widows' pensions.**—

(1) Subject to the provisions of this Part of this Act, a person (not being a blind person) shall be eligible for a supplementary pension under this Part of this Act who is a person entitled to receive weekly payments on account of an old age pension, or a person who has attained the age of sixty and is entitled to receive weekly payments on account of a widow's pension.

(2) Where it is proved in the prescribed manner that any person so eligible as aforesaid is in need of a supplementary pension, there

may be granted to him a supplementary pension of an amount determined in accordance with the provisions of this Part of this Act.

(3) The sums required for the payment of supplementary pensions under this Part of this Act shall be defrayed out of moneys provided by Parliament.

(4) Rules made for carrying this Part of this Act into effect shall prescribe the times at which, and the manner in which, applications for supplementary pensions are to be made, and shall make provision as to the days in the week on which supplementary pensions are to be payable to pensioners of any class, and as to the manner in which supplementary pensions are to be paid, and shall in particular provide for enabling pensioners to obtain payment thereof through the Post Office.

(5) A sum shall not be paid on account of a supplementary pension to any person unless that person is in Great Britain.

(6) No allowance shall after the second day of August nineteen hundred and forty, be granted under the Unemployment Assistance Act, 1934, to any person who is eligible for a supplementary pension.

[1028]

Under Part II of this Act the Assistance Board made Rules on June 8, 1940, certified under s. 2 of the Rules Publication Act, 1893, to come into immediate operation. These are the Supplementary Pensions (Appeal Tribunals) Rules, 1940 (P. & S. R. & O., 1940, No. 990) and the Supplementary Pensions (Determinations) Rules, 1940 (P. & S. R. & O., 1940, No. 991).

The Unemployment Assistance Act, 1934, is Part II and the Sixth, Seventh and Eighth Schedules of the Unemployment Act, 1934 (27 Statutes 786, 826-823). "Blind person" is defined in s. 19, *post*.

**10. Administration of supplementary pensions.**—(1) The Board constituted under section thirty-five of the Unemployment Act, 1934, shall cease to be called the Unemployment Assistance Board and shall be called the Assistance Board.

(2) References in any enactment or other document to the Unemployment Assistance Board shall be construed as references to the Assistance Board.

(3) The functions of the Assistance Board shall include the functions of granting supplementary pensions under this Part of this Act and generally of dealing, in accordance with the provisions of this Act, with matters relating to the administration of such pensions, and the provisions of the said Act of 1934 specified in the first column of the Second Schedule to this Act shall apply with respect to the functions of the Board under this Part of this Act, and with respect to supplementary pensions, subject to the modifications set out in the second column of that Schedule.

(4) The administration of supplementary pensions shall be conducted in such manner as may best promote the welfare of pensioners. [1029]

For s. 35 of the Unemployment Act, 1934, which is in Part II, usually, and in the previous section, cited as the Unemployment Assistance Act, see 27 Statutes 786.

**11. Provision for dealing with special cases.**—(1) Where an officer of the Assistance Board, or, on appeal, the appeal tribunal, is of opinion that it is necessary for protecting the interests of an applicant for a supplementary pension or of persons dependent upon him, that the whole or any part of the supplementary pension granted should be issued to some other person, the officer or tribunal may determine that it shall be so issued and shall specify the name of that person in the determination.

(2) An applicant who is aggrieved by any such determination as aforesaid made in his case by an officer of the Board may, without leave, appeal to the appeal tribunal. [1030]

**12. Provision as to supplementary pension paid in respect of person entitled to old age pension.**—(1) If during any period subsequent to the date upon which an old age pension began to accrue to any person a supplementary pension of an amount determined wholly or partly by reference to the needs of that person has been paid to some other person, and the said old age pension has not been taken into account in determining whether and at what rate the supplementary pension should be paid, the Assistance Board may certify the amount of the sums paid during the period aforesaid on account of the supplementary pension, or, as the case may be, the amount by which the sums so paid during that period would have been reduced if the old age pension had been taken into account as aforesaid, and the appropriate authority may direct that a sum equal to the amount so certified shall be treated as advances made on account of the old age pension to the person to whom that pension is payable, and the appropriate authority may deduct that amount from any payments accruing on account of the old age pension in respect of the said period, and may pay the amount so deducted to the Board.

(2) In this section the expression “the appropriate authority” means, in the case of an old age pension payable under the Old Age Pensions Act, 1936, the Treasury, and in the case of any other old age pensions, the Minister. [1031]

For the Old Age Pensions Act, 1936, see 29 Statutes 1051.

**13. Transitional provisions.**—Where a supplementary pension is granted to an applicant in whose case an order for outdoor relief was in force at any time during the month ending with the third day of August nineteen hundred and forty, the rate of the outdoor relief payable under any order for outdoor relief which was, at any time during the period of six months ending with that date, in force in the case of the applicant, may be taken into consideration and the amount of the supplementary pension may be increased accordingly notwithstanding anything in the regulations in force relating to the determination of the needs of the applicant. [1032]

**14. Temporary provisions as to commencement of supplementary pensions.**—(1) Subject to the provisions of this section, supplementary pensions shall not be payable to pensioners of any class before the first day after the third day of August nineteen hundred and forty, prescribed as the day of the week for the payment of supplementary pensions to pensioners of that class.

(2) If the Assistance Board are satisfied that by reason of the number of applications for supplementary pensions or other circumstances the administration of such pensions is in any area likely to present exceptional difficulty during the first two months after the said third day of August, the Board may make arrangements with the public assistance authority for that area whereby that authority may, notwithstanding anything in this Act, continue during that period to pay outdoor relief to such numbers or classes of persons eligible for supplementary pensions as may be specified in the arrange-

ments, and for repayment by the Board to the authority of any expenditure incurred by the authority in pursuance of the arrangements. [1033]

**15. Expenses and receipts of Board.**—(1) Any expenses of the Assistance Board attributable to the purposes of this Part of this Act shall be defrayed out of moneys provided by Parliament.

(2) Subsection (1) of section forty-four and subsection (1) of section forty-six of the Unemployment Act, 1934 (which make provision as to the payment of receipts and expenses of the Board into and out of the Unemployment Assistance Fund) shall apply only with respect to receipts and expenses of the Board attributable to the purposes of that Act. [1034]

For ss. 44 and 46 of the Unemployment Act, 1934, see 27 Statutes 794, 796.

**16. Contributions by local authorities and adjustments in respect of General Exchequer Grants.**—In respect of the relief afforded by the provisions of this Part of this Act to local authorities who are public assistance authorities, there shall be payable during the remainder of the third fixed grant period by such authorities in England and Wales to the Minister sums at the annual rate of one million pounds, and by such authorities in Scotland to the Secretary of State sums at the annual rate of one hundred and seventy-five thousand pounds, and the amount of the contribution to be made by each of the several local authorities in England and Wales and in Scotland respectively towards the said sums shall be such as may be determined by order of the Minister or Secretary of State, as the case may be, after consultation with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable; such contributions as aforesaid shall be payable at such times, and in such manner, as the Minister or Secretary of State may direct, or, where the Minister or Secretary of State so directs, the liability of any local authority to pay any such contribution may be discharged by the deduction of a sum equal to the contribution from the General Exchequer Grant payable to the authority. [1035]

For the meaning of "fixed grant period", see Local Government Act, 1929, s. 86 (2) (10 Statutes 938). The third fixed grant period expires March 31, 1942.

**17. Compensation to officers of public assistance authorities.**—(1) If, in consequence of the passing of this Part of this Act or of anything done in pursuance thereof, any officer or servant of a local authority which is a public assistance authority suffers any direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments, he shall be entitled to recover compensation for that loss from that authority:

Provided that no person shall, by virtue of this section, be entitled to recover compensation for any loss if provision is made for compensating him for that loss by or under any other enactment which is for the time being in force.

(2) For the purposes of this section, an officer or servant—

(a) who, at any time during the period of five years from the date of the passing of this Act, relinquishes his office by reason of his having been required to perform duties which are not analogous to, or which are an unreasonable addition to, those which he was required to perform immediately before that date; or

- (b) whose appointment is determined or whose emoluments are reduced during the period aforesaid, because his services are not required or his duties are diminished (no misconduct being established),

shall be deemed, unless the contrary is shown, to have suffered direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments in consequence of the passing of this Part of this Act or of something done in pursuance thereof.

(3) The provisions of the Fourth Schedule to the Local Government Act, 1933, shall have effect in relation to claims for compensation under this section :

Provided that the Minister may by order direct that the said provisions shall in relation to such claims have effect subject to such adaptations and modifications as he considers necessary for the purpose of applying them to claims made under this section.

(4) In this section the expression "emoluments" has the same meaning as in the Local Government Act, 1933. [1036]

These provisions follow the usual form. For the Fourth Schedule to Local Government Act, 1933, see 26 Statutes 504. "Emoluments" are defined in s. 305 of that Act (*ibid.*, 465) to include all salary, wages, fees, poundage and other payments paid or made to an officer as such for his own use, including the money value of any apartments, rations or other allowances in kind appertaining to his office, but not to include payments for overtime or any sum paid to him to cover travelling expenses, cost of office accommodation, assistance of deputies, or clerical or other assistance.

**18. Superannuation.**—Notwithstanding the expiration of the period of twelve months after the commencement of the Superannuation Act, 1935, rules may, within six months from the passing of this Act, be made under section nine of that Act applying to pensionable officers or servants of local authorities who become officers or servants of the Assistance Board after the date of the passing of this Act the rules in force under that section applicable to other persons who become civil servants, and the rules so made shall provide for treating any pensionable officer or servant of a local authority who becomes an officer or servant of the Board within one year after that date as a pensionable officer or servant of a local authority to which those rules apply, notwithstanding that the Treasury may not have directed that the rules should apply to that authority and that no application may have been made by the authority in that behalf; and as from the date from which such rules come into operation section fifty-one of the Unemployment Act, 1934, is hereby repealed :

Provided that nothing in this section or in any rules made thereunder shall affect the superannuation benefits of any person who become an officer or servant of the Board before that date. [1037]

For s. 9 of the Superannuation Act, 1935, see 28 Statutes 302, and for s. 51 of the Unemployment Act, 1934, see 27 Statutes 790.

See the Assistance Board (Superannuation) Rules, 1940 (P. R. & O., 1940) made under this Scheme on May 8, 1940.

**19. Interpretation.**—(1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"Blind person" means a person so blind as to be unable to perform any work for which eyesight is essential;

"Minister" means the Minister of Health;

"Old age pension" means an old age pension under the Old Age Pensions Act, 1936, or under or by virtue of the Widows',

Orphans' and Old Age Contributory Pensions Acts, 1936 to 1940, or under any enactment repealed by any of those Acts ;

"Prescribed" means prescribed by rules having effect for the purposes of this Part of this Act ;

"Widow's pension" has the meaning assigned to it by the Widows', Orphans' and Old Age Contributory Pensions Act, 1936.

(2) For the purposes of sub-paragraph (b) of paragraph 1 of the First Schedule to the Old Age Pensions Act, 1936, any supplementary pension receivable shall be deemed to be a sum receivable on account of an old age pension under that Act. [1038]

## 20. Application of Part II to Scotland. [1039]

### PART III

21. **Short title and extent.**—(1) This Act may be cited as the Old Age and Widows' Pensions Act, 1940.

(2) Save as otherwise expressly provided, this Act shall not extend to Northern Ireland. [1040]

### SCHEDULES

#### FIRST SCHEDULE

##### Section 1.

##### CONSEQUENTIAL AMENDMENTS OF CONTRIBUTORY PENSIONS ACTS

*Amendments of Widows', Orphans' and Old Age Contributory Pensions Act, 1936*

Provisions amended.	Amendments.
Section one	<p>— For paragraph (c) of subsection (1) there shall be substituted the following paragraph—</p> <p>"(c) to an insured man who has attained the age of sixty-five but who has not attained the age of seventy, to an insured woman who has attained the age of sixty, but has not attained the age of seventy, and to the wife of an insured man who has attained the age of sixty-five (such wife having attained the age of sixty but not having attained the age of seventy) a pension at the rate of ten shillings per week (in this Act called 'an old age pension')".</p>
Section eight	<p>— In paragraph (a) of subsection (1) for the words "he or she attains the age of sixty-five" there shall be substituted the words "that person attains the age in the case of a man of sixty-five and in the case of a woman of sixty", and in paragraph (b) of that subsection for the words "sixty-five" there shall be substituted the word "sixty".</p> <p>After subsection (1) there shall be inserted the following subsection—</p> <p>"(1A) In the case of a woman who on the thirtieth day of June nineteen hundred and forty had attained the age of sixty, the reference in paragraph (a) of the last foregoing subsection to 'the time of attaining that age' shall be construed as a reference to the said thirtieth day of June".</p>

Provisions amended.	Amendments.
Section nine	<p>- After subsection (2) there shall be inserted the following subsection—</p> <p>“ (3) In relation to the payment of an old age pension in respect of the insurance of a woman, the foregoing provisions of this section shall have effect —</p> <p>(a) in the case of a woman who on the thirtieth day of June nineteen hundred and forty had attained the age of sixty, as if for the reference in paragraph (c) of subsection (1) to the date on which she attained the age of sixty-five there were substituted a reference to the third day of July nineteen hundred and thirty-nine, as if for all other references to the date on which she attained the age of sixty-five there were substituted references to the thirtieth day of June nineteen hundred and forty, and as if at the end of proviso (i) to subsection (1) there were inserted the words ‘ and for the reference to the third day of ‘ July nineteen hundred and thirty-nine ’ ; and</p> <p>(b) in any other case as if for the words ‘ sixty-five ’ there were substituted the word ‘ sixty ’ ”.</p>
Section ten	<p>- At the end of subsection (1) there shall be inserted the following paragraph—</p> <p>“ In relation to a woman, the foregoing provisions of this section shall have effect—</p> <p>(a) in the case of a woman who on the thirtieth day of June nineteen hundred and forty had attained the age of sixty-four and had ceased to be insured since attaining that age, as if for the words ‘ if within twelve months of ceasing to be insured he attains the age of sixty-five ’ there were substituted the words ‘ from the first day of July nineteen hundred and forty ’ ; and</p> <p>(b) in any other case as if for the references therein to the age of sixty-five there were substituted references to the age of sixty ”.</p>
Section twelve	<p>- In paragraphs (a), (c) and (d) of subsection (1), for the words “ who has not attained the age of sixty-five ” wherever those words occur, there shall be substituted the words “ who, being a man, has not attained the age of sixty-five, or, being a woman, has not attained the age of sixty ”.</p> <p>In paragraph (b) of subsection (1), for the words “ who has attained the age of sixty-five ” there shall be substituted the words “ who, being a man, has attained the age of sixty-five, or, being a woman, has attained the age of sixty ”.</p>

Provisions amended.	Amendments.
Section thirteen	- In subsection (1), after the words " who has attained the age of sixty-five " there shall be inserted the words " or, being a woman, has attained the age of sixty ".
Section fourteen	- In the proviso to subsection (2) for the words " have attained the age of sixty-five " there shall be substituted the words " being men have attained the age of sixty-five and being women have attained the age of sixty ".
Section seventeen	- In subsection (5) at the end of paragraph (a) there shall be inserted the words " or in the case of a woman the age of sixty ".
Section twenty	- In subsection (1) for the word " ninepence " there shall be substituted the words " elevenpence ".
Section twenty-two	- At the end of subsection (1) there shall be inserted the following paragraph— " The provisions of this section shall apply in relation to a woman as if for the references therein to the age of sixty-five there were substituted references to the age of sixty ".
Section forty-one	- At the end of the section there shall be inserted the following subsection— " (5) In this section the expression ' rates of contributions ' means the rates for the time being in force under any enactment ".
First Schedule	- For the table contained in Part I there shall be substituted the following table—

" ORDINARY RATES OF CONTRIBUTIONS

	Rate of contribution per week.	Payable in case of employed persons.	
		By the employer.	By the employed person.
Contributions in case of men - - -	1s. 1d.	6½d.	6½d.
Contributions in case of women - - -	8½d.	3½d.	5d."

For the table contained in Part II there shall be substituted the following table—

" RATES OF CONTRIBUTIONS IN RESPECT OF PERSONS EMPLOYED WITHIN THE MEANING OF THE INSURANCE ACT WHO, BEING MEN, HAVE ATTAINED THE AGE OF SIXTY-FIVE, OR, BEING WOMEN, HAVE ATTAINED THE AGE OF SIXTY

Contributions in case of men - - -	11d.	11d.	—
Contributions in case of women - - -	8d.	8d.	— "

Fourth Schedule - In paragraph 6 for the words " sixty-five " there shall be substituted the word " sixty ".

Provisions amended.	Amendments.
<i>Amendment of the Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937</i>	
Section twelve	— In subsection (1) after the words "sixty-five" there shall be inserted the words "or in the case of a woman, the age of sixty".

*Amendments of the National Health Insurance and Contributory Pensions (Emergency Provisions) Act, 1939*

Section fourteen	— At the end of subsection (3) there shall be inserted the following paragraph— "Paragraph (a) of this subsection shall, in cases where the person by virtue of whose insurance the pension is payable is a woman, be construed as if for references to sixty-five years and to nineteen hundred and thirty-four there were substituted respectively references to sixty years and nineteen hundred and twenty-nine". [1041]
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## SECOND SCHEDULE

### Section 10.

#### PROVISIONS OF 24 & 25 GEO. 5, C. 29, APPLIED WITH MODIFICATIONS

Provisions applied.	Modifications.
Subsections (3) and (4) of section thirty-five	Subsection (3) shall have effect as if the words "under this Part of this Act" were omitted; and subsection (4) shall have effect as if for the words "the operation of this Part of this Act" there were substituted the words "their functions in connection with the administration of supplementary pensions" and as if after the word "Minister" there were inserted the words "the Minister of Health and the Secretary of State".
Subsections (2), (3), (4) and (5) of section thirty-eight.	Subsection (2) shall have effect as if for the words "allowance to be granted under this Part of this Act" there were substituted the words "supplementary pension to be granted" and as if for the words "this Act" (where those words occur for the second time) there were substituted the words "the Unemployment Act, 1934"; subsection (3) shall have effect as if for the words "made under this Part of this Act" there were substituted the words "having effect for the purposes of Part II of the Old Age and Widows' Pensions Act, 1940", and as if after paragraph (c) there were inserted the following paragraphs :— "(f) the first seven shillings and sixpence a week of any superannuation payment in respect of previous service or employment from which the recipient has retired or resigned (whether payable by a former employer or not) not being a payment on account of an old age pension, as defined in Part II of the Old Age and Widows' Pensions Act, 1940, shall be disregarded ;

Provisions applied.	Modifications.
Subsections (2), (3), (4) and (5) of section thirty-eight— <i>contd.</i>	(g) the first seven shillings and sixpence a week of any sickness payment under Part I of the Old Age and Widows' Pension Act, 1940, shall be dis- regarded ";  and subsection (5) shall have effect as if for the word "allowances" there were substituted the words "supplementary pensions", as if for the words "with the Minister" there were substituted the words "with any government department" and as if for the words "of the Minister" there were substituted the words "of that department".
Subsections (1), (3), (4), (5) and (6) of section thirty-nine.	Subsection (1) shall have effect as if for the words "allowances under this Part of this Act" there were substituted the words "supplementary pensions"; subsection (3) shall have effect as if for the words "an allowance" in all places where those words occur there were substituted the words "a supplementary pension" and as if for the words "the allowance" there were sub- stituted the words "the supplementary pension"; subsection (4) shall have effect as if for the words "For the purposes of this Part of this Act there shall be constituted appeal tribunals and" there were substituted the words "The appeal tribunals constituted in accordance with" and as if for the words from "have effect" to the end of the subsection there were substituted the words "act for the purposes of Part II of the Unemployment Act, 1934 and of Part II of the Old Age and Widows' Pensions Act, 1940"; subsection (5) shall have effect as if for the words "to whom this Part of this Act applies" were omitted, and as if for the words "an allowance under this Part of this Act" there were substituted the words "a supplementary pension"; as if for the words "provided in the section next following" there were substituted the words "otherwise expressly provided"; and as if for the words "made in that behalf under this Part of this Act" there were substituted the words "having effect in that behalf"; and subsection (6) shall have effect as if for the words "made under this and the next following section" there were substituted the words "having effect for the purposes of Part II of the Old Age and Widows' Pensions Act, 1940".
Section forty-eight	- The section shall have effect as if for the words "an allowance" in all places where those words occur there were substituted the words "a supple- mentary pension".
Section fifty	- - Subsection (2) shall have effect as if for the words "a person to whom this Part of this Act applies" there were substituted the words "eligible for a supplementary pension"; subsection (4) shall have effect as if for the words "an allowance under this Part of this Act" there were substituted the words "a supplementary pension"; and the section shall have effect as if for the words "this

Provisions applied.	Modifications.
Section fifty— <i>contd.</i>	Part of this Act" in any other places in which those words occur there were substituted the words "Part II of the Old Age and Widows' Pensions Act, 1940".
Section fifty-two	- The sections shall have effect as if after the word "Minister" wherever that word occurs there were inserted the words "and the Secretary of State acting in conjunction", as if for the words "him" and "he" respectively wherever those words occur there were substituted the words "them" and "they", as if for the words "thinks", "makes", and "intends", respectively, there were substituted the words, "think", "make", and "intend", and as if for the words "the Minister's" there were substituted the word "their"; subsection (1) shall have effect as if for the words "this Part of this Act" where those words first occur there were substituted the words "Part II of the Old Age and Widows' Pensions Act, 1940", and as if for the words this Act to be made under this Part of this Act (except rules authorised to be made under the last foregoing section)" there were substituted the words "that Part of that Act to be made thereunder"; subsection (2) shall have effect as if for the words "The Board shall within four months from the passing of this Act and thereafter" there were substituted the words "The regulations which were at the date of the passing of the Old Age and Widows' Pensions Act, 1940, in force for the purposes of subsection (3) of section thirty-eight of the Unemployment Act, 1934, shall have effect for the purposes of that section as it applies with respect to the functions of the Board under Part II of the said Act of 1940, subject to such adaptations as may be prescribed by rules made by the Board and the Board shall"; and as if for the words "this Act" where those words occur for the second time there were substituted the words "the Unemployment Act, 1934, as that section applies with respect to the functions of the Board under Part II of the said Act of 1940".
Section fifty-three Subsections (1), (2), (3) and (6) of section fifty-four.	- None. Subsection (1) shall have effect as if the definitions of "contravention" and "education authority" were omitted and as if for the definition of "Minister" there were substituted in the following definition "'Minister', (except in subsections (3) and (4) of section thirty-five, where that expression means the Minister of Labour) means the Minister of Health"; subsection (2) shall have effect as if for the words "sixteen" and "sixteenth" there were substituted respectively the words "sixty" and "sixtieth" and subsection (3) shall have effect as if for the words "an allowance or for a decision that a person is a person to whom this Part of this Act applies" there were substituted the words "a supplementary pension".

Provisions applied.	Modifications.
Section fifty-five	- This section shall have effect as if— (a) for paragraph (1) there were substituted the following paragraph— “(1) A reference to the Secretary of State shall, except in subsection (4) of section thirty-five and in section fifty-two, be substituted for any reference to the Minister of Health”;
Section fifty-five	- (b) there were omitted, the definition of “work-house” in paragraph (2), paragraph (3), and the words in paragraph (5) “the definition of ‘Education authority’ shall be omitted and”.
Section fifty-six	- Subsection (1) shall have effect as if for the words “unemployment assistance” there were substituted the words “supplementary pensions”; as if for the words “by this Part of this Act” there were substituted the words “by Part II of the Old Age and Widows’ Pensions Act, 1940”; as if for the words “under this Part of this” there were substituted the words “under Part II of that” and as if for the word “allowances” there were substituted the words “supplementary pensions”; and subsection (2) shall have effect as if for the words “this Part of this Act” there were substituted the words “Part II of the Old Age and Widows’ Pensions Act, 1940”.
Paragraph 6 of the Seventh Schedule.	Sub-paragraph (c) shall have effect as if for the words “for a period specified therein no further applications for an allowance made by an applicant shall be “considered” there were substituted the words “the applicant shall cease to be eligible for a supplementary pension”.
Eighth Schedule	- For the Schedule there shall be substituted the following Schedule :—

#### “ EIGHTH SCHEDULE

##### MODIFICATION OF ENACTMENTS RELATING TO RELIEF OF THE POOR

##### PART I

##### COMMENCEMENT OF SCHEDULE

This Schedule shall come into operation as respects any class of pensioners on the first day prescribed for payment of supplementary pensions to pensioners of that class.

##### PART II

##### PROVISIONS APPLYING TO ENGLAND AND WALES

1. A public assistance authority shall not after the commencement of this Schedule order outdoor relief to be given—

- (a) to any person during any period in respect of which an old age pension is payable to that person, or to any woman who has attained the age of sixty during any period in respect of which a widow’s pension is payable to her, except (in either case) during any period after the date when the pension began to accrue to that person but before the date on which the person becomes entitled to receive weekly payments on account thereof; or

- (b) to any person whose needs have been taken into account in a determination for the time being in force granting a supplementary pension :

Provided that this paragraph shall not apply to the granting of relief in respect of the medical needs of any person or affect any powers or duties under section seventeen of the Poor Law Act, 1930 (which relates to relief in cases of sudden or urgent necessity).

2. The Assistance Board shall pay to any public assistance authority—

- (a) the cost of any outdoor relief (not being relief in respect of medical needs) lawfully given after the commencement of this Schedule to any person after the date on which an old age pension began to accrue to him, or, in the case of a woman entitled to a widow's pension, after the date on which she attained the age of sixty years, or the date on which a widow's pension began to accrue to her, whichever is the later ;
- (b) the cost of any relief under section seventeen of the Poor Law Act, 1930 (not being relief in respect of medical needs) given after the commencement of this Schedule to a person eligible for a supplementary pension :

Provided that the amount payable by the Board in respect of any person under sub-paragraph (a) or sub-paragraph (b) of this paragraph shall not exceed the amount of the supplementary pension which would have been granted to that person by the Board, and any dispute between the Board and any authority as to the amount of the supplementary pension which would have been granted as aforesaid shall be referred to the appeal tribunal, whose decision shall be final.

### PART III

#### PROVISIONS APPLYING TO SCOTLAND

1. A poor law authority shall not after the commencement of this Schedule afford outdoor relief—

- (a) to any person during any period in respect of which an old age pension is payable to that person, or to any woman who has attained the age of sixty during any period in respect of which a widow's pension is payable to her, except (in either case) during any period after the date when the pension began to accrue to that person but before the date on which the person becomes entitled to receive weekly payments on account thereof ; or
- (b) to any person whose needs have been taken into account in a determination for the time being in force granting a supplementary pension :

Provided that—

- (i) nothing in this paragraph shall prohibit outdoor relief being afforded to any person in a case of sudden or urgent necessity ;
- (ii) this paragraph shall not apply to the affording of relief in respect of the medical needs of any person.

2. The Assistance Board shall pay to any poor law authority—

- (a) the cost of any outdoor relief (not being relief in respect of medical needs) lawfully afforded after the commencement of this Schedule to any person after the date on which an old age pension began to accrue to him or, in the case of a woman entitled to a widow's pension, after the date on which she attained the age of sixty years, or the date on which a widow's pension began to accrue to her, whichever is the later ;
- (i) the cost of any outdoor relief (not being relief in respect of medical needs) afforded after the commencement of this Schedule in a case of sudden or urgent necessity to a person eligible for a supplementary pension :

Provided that the amount payable by the Board in respect of any person under sub-paragraph (a) or sub-paragraph (b) of this paragraph shall not exceed the amount of the supplementary pension which would have been granted to that person by the Board, and any dispute between the Board and any authority as to the amount of the supplementary pension which would have been granted as aforesaid shall be referred to the appeal tribunal whose decision shall be final." [1042]

## ORDERS, CIRCULARS AND MEMORANDA

### PUBLIC ASSISTANCE (AMENDMENT) ORDER, 1940

*P. R. & O.*, 1940

*April 16, 1940*

102750.

Whereas by the Public Assistance Order, 1930, made by the Minister of Health under the Poor Law Act, 1930, as amended by the Public Assistance (Casual Poor) Order, 1931, and the Public Assistance (Amendment) Order, 1939, provision is made in relation to the discharge of the poor law functions of councils of counties and county boroughs ;

And whereas it is expedient that the Public Assistance Order, 1930, as amended as aforesaid should be further amended as hereinafter appearing :

Now therefore the Minister of Health hereby certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency the following regulations should come into immediate operation and in exercise of his powers under the Poor Law Act, 1930, and of all other powers enabling him in that behalf, hereby makes the following regulations to come into operation forthwith as provisional rules :

1. These regulations may be cited as the Public Assistance (Amendment) Order, 1940. [1043]

2. These regulations shall continue in operation until such date as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of the Courts (Emergency Powers) Act, 1939, came to an end.

3. Subject to the provisions of subsection (1) of section 137 of the Poor Law Act, 1930, the Public Assistance Order, 1930, as amended as aforesaid shall have effect as if—

- (i) the following provision were added to Article 5 thereof namely—  
“ ‘ evacuation plan ’ means such a plan as is mentioned in subsection (1) of section 56 of the Civil Defence Act, 1939 ” ;
- (ii) the words “ or to and from any place for the purpose of visiting a child for the time being at such place under an evacuation plan ” were added to Article 17 thereof ;
- (iii) the following proviso were added to Article 22 thereof, namely—  
“ Provided that this Article shall not be applicable in relation to any relief given in food, temporary lodging or clothing under arrangements made for the relief of

- (a) persons for the time being rendered homeless by the destruction of their houses by enemy action ;
- (b) persons, other than those transferred under an evacuation plan, forced to leave their homes by enemy attack or the imminence of such attack ; and
- (c) survivors of disasters at sea landed in England and Wales." ;
- (iv) the word " month " were substituted for the word " fortnight " in paragraph (a) of Article 72 thereof ; and
- (v) the words " together with a half-yearly or yearly Abstract thereof " were omitted from paragraph 13 of Article 167 thereof. [1044]

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## PUBLIC ASSISTANCE (AMENDMENT) ORDER (NO. 2), 1940

*S. R. & O., 1940, No. 1764*

*September 27, 1940*

102973.

Whereas by the Public Assistance Order, 1930, made by the Minister of Health under the Poor Law Act, 1930, as amended by the Public Assistance (Casual Poor) Order, 1931, and the Public Assistance (Casual Poor) Amendment Order, 1939, the Public Assistance (Amendment) Order, 1939, and the Public Assistance (Amendment) Order, 1940, provision is made in relation to the discharge of the poor law functions of councils of counties and county boroughs ;

And whereas it is expedient that the Public Assistance Order, 1930, as amended as aforesaid should be further amended as hereinafter appearing ;

Now therefore the Minister of Health in exercise of his powers under the Poor Law Act, 1930, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the Public Assistance (Amendment) Order (No. 2), 1940, and the Public Assistance Order, 1930, as amended by the Public Assistance (Casual Poor) Order, 1931 and the Public Assistance (Casual Poor) Amendment Order, 1939 and the Public Assistance (Amendment) Order, 1939, and these regulations may be cited together as the Public Assistance Orders, 1930 to 1940. [1045]

2. The Public Assistance Order, 1930, as amended as set out in the first recital hereto shall have effect as if—

- (i) the words " at reasonable intervals " were inserted after the word " conveying " in Article 17 thereof ; and
- (ii) the following provisions were substituted for Article 23 thereof, namely—

" 23.—(1) At the beginning of each half-year the Clerk shall prepare a Permanent Medical Relief List of

- (A) all aged, infirm, permanently sick or permanently disabled persons residing in each medical relief district in respect of whom relief is being given and who are not entitled to medical benefit under the National Health Insurance Acts, 1936 to 1939 ; and
- (B) all persons not being entitled to medical benefit as aforesaid
  - (a) in receipt of assistance, not being assistance in an institution or medical assistance, under the Blind Persons Acts, 1920 and 1938 ;
  - (b) in receipt of a supplementary pension under Part II of the Old Age and Widows' Pensions Act, 1940 ; or
  - (c) being aged, infirm, permanently sick or permanently disabled persons whose needs have been taken into account in a determination for the time being in force granting a supplementary pension under the said Act ;

who are residing in the district and

- (i) were included in the List for the preceding half-year or were in that half-year in receipt of medical relief ; or
- (ii) an application by or on behalf of whom for inclusion in the Lists prepared from time to time has been allowed by the Council.

(2) A copy of the List shall be furnished to the District Medical Officer.

(3) Each person whose name appears on the Permanent Medical Relief List shall receive a ticket entitling him to the services of the District Medical Officer for the time specified therein." [1046]

\* \* \* \* \*

## RELIEF REGULATION (AMENDMENT) ORDER, 1940

*S. R. & O.*, 1940

*April 16, 1940*

102751.

Whereas by the Relief Regulation Order, 1930, made by the Minister of Health under the Poor Law Act, 1930, as amended by the Relief Regulation (Amendment) Order, 1932, provision is made in relation to the discharge of the poor law functions of councils of counties and county boroughs :

And whereas it is expedient that the Relief Regulation Order, 1930, as amended as aforesaid should be further amended as hereinafter appearing :

Now therefore the Minister of Health hereby certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency the

following regulations should come into immediate operation and in exercise of his powers under the Poor Law Act, 1930, and of all other powers enabling him in that behalf, hereby makes the following regulations to come into operation forthwith as provisional rules.

1. These regulations may be cited as the Relief Regulation (Amendment) Order, 1940. [1047]

2. These regulations shall continue in operation until such date as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of the Courts (Emergency Powers) Act, 1939, came to an end. [1048]

3. Subject to the provisions of subsection (1) of section 137 of the Poor Law Act, 1930, the Relief Regulation Order, 1930, as amended as aforesaid shall have effect as if—

- (i) Article 5 were omitted therefrom ;
- (ii) the following provision were added after Article 9 thereof, namely—

“ 9A. Notwithstanding anything contained in Articles 6, 7 or 8 the Council may afford without conditions relief given in food, temporary lodging or clothing under arrangements made for the relief of

- (a) persons for the time being rendered homeless by the destruction of their houses by enemy action ;
- (b) persons, other than those transferred under an evacuation plan, forced to leave their homes by enemy attack or the imminence of such attack ; and
- (c) survivors of disasters at sea landed in England and Wales.”

- (iii) the words “ a fortnight ” were substituted for the words “ a week ” in paragraph (1) and the word “ twenty-seven ” were substituted for the word “ fourteen ” in sub-paragraph (c) of paragraph (2) of Article 11 thereof. [1049]

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## RELIEF REGULATION (AMENDMENT) ORDER (NO. 2), 1940

*S. R. & O., 1940, No. 1765*

*September 27, 1940*

102976.

Whereas by the Relief Regulation Order, 1930, made by the Minister of Health under the Poor Law Act, 1930, as partly rescinded on 19th December, 1931 and amended by the Relief Regulation (Amendment) Order, 1932 and the Relief Regulation (Amendment) Order, 1940, provision is made in relation to the discharge of the poor law functions of councils of counties and county boroughs ;

And whereas it is expedient that the Relief Regulation Order, 1930, as partly rescinded and amended as aforesaid should be further amended as hereinafter appearing :

Now therefore the Minister of Health in exercise of his powers under the Poor Law Act, 1930, and of all other powers enabling him in that behalf hereby makes the following regulations :—

1. These regulations may be cited as the Relief Regulation (Amendment) Order (No. 2), 1940, and the Relief Regulation Order, 1930, as partly rescinded as aforesaid and amended by the Relief Regulation (Amendment) Order, 1932, and these regulations may be cited together as the Relief Regulation Orders, 1930 to 1940. [1050]

2. The Relief Regulations Order, 1930, as partly rescinded and amended as set out in the first recital hereto shall have effect as if in Article 16 thereof—

- (i) there were inserted after the words “ In every case ” the words “ to which this Article applies ”; and
- (ii) there were inserted at the end of the Article the following provision, namely—

“ This Article applies to every case in which an application is made for relief not being an application for medical relief made by or on behalf of

- (a) a person in receipt of assistance, not being assistance in an institution or medical assistance, under the Blind Persons Acts, 1920 and 1938 ;
- (b) a person in receipt of a supplementary pension under Part II of the Old Age and Widows' Pensions Act, 1940 ; or
- (c) an aged, infirm, permanently sick or permanently disabled person whose needs have been taken into account in a determination for the time being in force granting a supplementary pension under the said Act. [1051]

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## MEASURES TO BE TAKEN FOR DEALING WITH SURVIVORS OF DISASTERS AT SEA

*Circular 1974*

*February 29, 1940*

SIR,—1. I am directed by the Minister of Health to state that he has been considering the measures to be taken for dealing with survivors of disasters at sea who may be landed in this country. [1052]

2. Some of these survivors may be in need of medical care and attention, and there are likely to be others who though not in need of medical attention, nevertheless require temporary assistance in the form usually of food and shelter, and possibly of clothing. [1053]

3. The former will be dealt with under the Emergency Hospital Scheme : most, if not all, of the latter will fall within the ambit of section 17 of the Poor Law Act, 1930, under which it is the duty of a Relieving Officer to give relief otherwise than in money in cases of sudden

or urgent necessity. The Police are accordingly being asked to notify the Medical Officer of Health of the County or County Borough and the appropriate local officer of the Public Assistance Committee of the arrival of such survivors. [1054]

4. I am therefore to request that the Chief Constables concerned may at once be informed of an address and telephone number at which the Medical Officer of Health or one of his assistants can always be obtained and of the names, addresses and telephone numbers of the officers of the Public Assistance Committee selected to be responsible for this duty, with the areas for which they are responsible. [1055]

5. The Medical Officer of Health will arrange for the admission of any survivor in need of hospital treatment to an appropriate hospital as near as practicable to the place of landing, and for the attendance of any survivor suffering from minor injuries or shock at a hospital out-patient department or the nearest first-aid post. The Medical Officer of Health should inform the Regional Hospital Officer of the number of patients treated and of how they have been accommodated. If sufficient notice is available arrangements should be made for a Medical Officer to be in attendance at the place of landing when the survivors are put ashore, together with such ambulance transport as appears likely to be necessary. In other cases the Medical Officer of Health or his assistant should give directions as to the institution or hospital to which any survivors in need of medical attention should be immediately transferred and at which medical attention will be immediately available if it has not been possible to provide this at the time of landing. [1056]

6. Where the distress of such persons is the result of enemy action, as will normally be the case, they will usually come within the scope of the scheme for the Prevention and Relief of Distress and they will therefore be eligible for allowances from the Unemployment Assistance Board to meet their needs. The Board's powers, however, are not very apt to such circumstances, since they are based on application for assistance made by individuals, and on the issue of allowances to individuals for the most part in cash and otherwise by orders on suppliers. [1057]

7. Public Assistance Authorities, on the other hand, have powers and resources better fitted to deal with a situation of this kind in which urgent need must be met by the provision of relief in kind in the form of food, shelter and clothing. They will usually have institutions available in which shelter can be provided, facilities for providing food in bulk and preparing it, and stocks of clothing or standard arrangements with suppliers under which any necessary clothing could quickly be provided. [1058]

8. In many cases, however, the Public Assistance Authority will be able to arrange for supplying the needs of the survivors with some other agency such as the Shipwrecked Mariners' Society, who have arrangements for providing immediate assistance required by shipwrecked persons. The Shipping Company or its agent may similarly be willing to assist, and it will sometimes be found in the case of aliens that the Embassy, Legation or Consulate of the country concerned will be willing to accept responsibility for making the necessary provision. [1059]

9. It seems to the Minister and to the Unemployment Assistance Board to be desirable that the appropriate Public Assistance Authority should accept responsibility for granting any relief immediately required so far as it is not provided from other sources, and then seek to recover the cost from any of the appropriate agencies mentioned above. If no such recovery prove to be practicable, the Board will be willing to consider a claim for repayment under the Eighth Schedule to the Unemployment Assistance Act, 1934, so far as the relief has been given under section 17 of the Poor Law Act, 1930. It should, however, be noted that the Unemployment Assistance Board have no power of recovery in respect of assistance given to one of their applicants under arrangements such as are indicated in paragraph 8. [1060]

10. As soon as the immediate needs have been met and the individuals concerned have been accommodated in such a way that they are able again to make provision for their own needs out of cash given to them, the Board will be prepared to deal with them on an individual basis under the Prevention and Relief of Distress Regulations. [1061]

11. I am therefore to request that the Council will make immediate arrangements for such accommodation as may be necessary to be available either at one of their own institutions or through one of the agencies referred to in paragraph 8. Arrangements should also be made for any transport which may be required for conveying the survivors from the actual place of landing to this accommodation to be available at very short notice. [1062]

12. Detailed particulars of the arrangements made should be notified to the Senior Regional Officer of the Ministry of Health. [1063]

13. Arrangements have been made for the local officers of the Unemployment Assistance Board and the Ministry of Pensions to be informed of the arrival of survivors through the Regional Headquarters. I am, however, to suggest that the Council's officers should themselves maintain close contact with the appropriate local officers of the Board so that the Board may be kept fully informed of the nature of any temporary arrangements which may be made to supply food and shelter to those in urgent need and also to facilitate the transfer of cases if continuing assistance in cash proves to be necessary. [1064]

14. It will be appreciated that while the Minister has addressed this letter to County and County Borough Councils throughout England and Wales, it will be necessary for detailed action on the lines indicated to be taken only in coastal areas. In such areas it will be understood that survivors may land at any part of the coast—not necessarily at a port—and that the arrangements made should be such as to cover this contingency. [1065]

15. A copy of this Circular is being sent to the Medical Officer of Health. [1066]

I am, Sir, etc.

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## PUBLIC ASSISTANCE

*Circular 2000**April 19, 1940*

SIR,—1. I am directed by the Minister of Health to state that he has had under consideration the effect of the War on the administration of poor relief, and the measures which might be adopted to meet the difficulties arising therefrom. (*Encs. P.R.O. No. 102750. P.R.O. No. 102751.*) [1067]

## REMOVAL AND SETTLEMENT

2. It appears to the Minister that there is a danger that the expenditure of time and money by Public Assistance Authorities in adjusting the cost of relief between one authority and another, already considerable in peace-time, may be materially increased by reason of the extensive movements of population taking place immediately before or during the War. He has accordingly consulted with representatives of the County Councils' Association, the Association of Municipal Corporations and the London County Council as to the most satisfactory means of reducing this volume of work and he has carefully considered a number of proposals from individual authorities which have been made to him. [1068]

3. The Minister understands that reciprocal arrangements have already been made by a number of groups of authorities to the effect that the service of Removal Orders by one authority upon another in the group shall be suspended for the duration of the War. The Minister considers that there would be advantage if the number of such agreements could be extended, and he suggests that if they have not already done so the Council should consider how far it is possible for them to enter into such agreements with neighbouring or other authorities. [1069]

4. The Minister appreciates, however, that it may be difficult to make such agreements of universal application, and he recommends that in cases not covered by such agreements every Public Assistance Authority should adopt the following arrangement for the duration of the war :—

- (a) if a person who moves, or has on or after the 28th August, 1939, moved, from one County or County Borough to another was in receipt of relief within four weeks before the date of moving, any relief granted to him after that date shall be paid or reimbursed by the same Council as the earlier relief ;
- (b) in respect of all other cases in which relief is granted, the existing procedure relating to chargeability shall continue to apply.

The Minister recognises that these recommendations may cease to be appropriate should there be any material change in present circumstances, and if this should be found to be so he will be prepared to review the position in consultation with representatives of the Local Authorities.

In connection with (b) the Minister hopes that every authority will reduce to a minimum the amount of investigation undertaken and that as a matter of practice they will accept or, as the case may be, not seek

to transfer responsibility for any case in which, on the evidence readily available, they appear to be liable.

In order that the above arrangements may be put into operation, the Minister has by Order suspended Article 5 of the Relief Regulation Order, 1930, for the duration of the War. [1070]

5. The Minister also trusts that, in the interest of national policy, the Council will exercise great discretion in the service of Removal Orders and especially that persons who have moved away from vulnerable areas either under the Government Evacuation Scheme or otherwise will not be actually removed. [1071]

#### COMMITTEE MEETINGS

6. It appears probable that in some areas it may be difficult to secure an adequate attendance of members at meetings of Guardians Committees and other sub-committees administering relief, and to meet this position where it arises one of the undermentioned suggestions might be adopted. [1072]

7. If the Council have not already done so they might consider the system of appointing Adjudicating Officers to which reference has been made in recent Annual Reports of the Department. The functions of such officers would include the consideration of the Relieving Officers' reports on applications for relief and the determination of the relief, if any, to be granted. The determination would be subject to appeal to the Guardians Committee or other appropriate Sub-Committee and while the appointment of these officers would not involve the abolition of any such sub-committee, it would result in a substantial reduction in the number of cases, especially routine cases, brought before it. [1073]

8. Again, in some counties or districts it may be possible for Guardians Committees and other Sub-Committees to continue to hold their meetings but, within the limits of section 5 (2) of the Poor Law Act, 1930, with a smaller membership and a smaller quorum than those at present prescribed. [1074]

9. Which, if any, of these courses should be adopted is a matter for the Council to determine in the first instance, having regard to any relevant local circumstances. The Minister will be prepared to consider any application which the Council may make to him for an Order providing for the appointment of Adjudicating Officers or for his approval to an amending Administrative Scheme. [1075]

#### INSPECTIONS AND PAYMENTS

10. The Minister has also caused to be reviewed the various requirements of the Public Assistance Order, 1930, and the Relief Regulation Order, 1930, and, with a view to relieving Public Assistance Authorities and their officers of certain routine duties under these Orders, he has decided to amend, for the duration of the War, Article 72 (a) of the Public Assistance Order so as to permit of monthly instead of fortnightly inspections of institutions; Article 11 (1) of the Relief Regulation Order, 1930, to allow outdoor relief to be paid fortnightly, and Article 11 (2) (c) of the same Order, to allow Orders for outdoor relief to be made for periods up to twenty-seven weeks. As regards the amendments to the Relief Regulation Order, the Minister relies on the

discretion of the Council to secure that relief is paid at shorter than fortnightly intervals in all cases where this seems to be desirable and in particular where the recipient prefers weekly payments, and that orders for extended periods are made only in suitable cases of a permanent nature. [1076]

#### CLERICAL WORK AND REPORTS

11. It appears to the Minister that the present emergency offers a suitable opportunity for the Council to review the clerical systems both at Public Assistance Offices and at Institutions with a view to reducing unnecessary office work and in particular to eliminating any records and accounts which may at present be kept but which are not required by or for the purposes of the Public Assistance Order, 1930, or the Public Assistance Accounts (County Councils) Regulations, 1930, or otherwise. [1077]

12. It is suggested, in particular, that the practice of requiring and furnishing routine quarterly reports on both non-settled and non-resident cases should be discontinued at any rate for the duration of the War, subject to reports being made when circumstances change or special circumstances exist. [1078]

13. The Minister has, further, decided to amend Article 167 (13) of the Public Assistance Order, 1930, so as to dispense with the preparation by Relieving Officers of the yearly and half-yearly abstracts of the Out-Door Relief List. [1079]

14. The Minister has had under consideration also the clerical work involved in the arrangements made under Circulars 1860 and 1974, and has decided to except relief granted under these arrangements from the operation of Articles 6, 7 and 8 of the Relief Regulation Order, 1930, and of Article 22 of the Public Assistance Order, 1930. [1080]

#### CHILD VAGRANCY

15. In view of the present small number of child vagrants the Minister has decided to suspend for the duration of the War the compilation of the Register of such cases in this Department. The quarterly return of children in casual wards which was first called for in Circular 1472A of the 5th April, 1935, need not therefore be submitted during that period. It will be for the Vagrancy Authorities to consider whether officers in charge of casual wards should continue to furnish returns to them, and if a considerable saving of work locally would be effected thereby the Minister would raise no objection to their discontinuance so long as the position is kept under review and any increase in the number of child vagrants is at once brought to notice. In any event the Minister hopes that Authorities will continue to deal with the problem of vagrant children on the lines suggested in the Home Office Circular of the 24th July, 1936, a copy of which was enclosed with Circular 1562. [1081]

#### VAGRANCY COMMITTEE MEETINGS

16. In regard to meetings of Joint Vagrancy Committees, the Minister will be prepared to consider proposals for the alteration of Joint Vagrancy Committee Orders where difficulties are experienced

or anticipated in securing a sufficient attendance of members at meetings of the Committee. It is not considered desirable that meetings should be held less frequently than once a quarter, but it is suggested that the position might be met by providing for a reduced membership or a smaller quorum. [1082]

#### VISITS BY PARENTS ON RELIEF TO THEIR EVACUATED CHILDREN

17. The Minister has had brought to his notice the question of the payment by Public Assistance Authorities in evacuation areas to recipients of poor relief of the travelling expenses of visiting their children who have been removed to reception areas under the Government Evacuation Scheme, and he has decided to amend and extend Article 17 of the Public Assistance Order, 1930, so as to empower Public Assistance Authorities to make such payments. [1083]

18. In this connection I am to invite the Council's attention to the Minister's Circular No. 1913 of the 17th November, 1939, and the accompanying Memorandum No. 6, in particular to paragraphs 17 to 20 of the latter, and to request that the general considerations referred to in Memorandum Ev. 6, are brought to the attention of the parents concerned. Moreover, the Council will no doubt exercise special care in considering applications for assistance from persons who are known to be of unsatisfactory character. [1084]

19. The Minister considers that such payments should normally be made only to the amount of the lowest fares available for return on the same day, including fares under the special arrangements referred to in Memorandum Ev. 6. The frequency with which such assistance is granted to a particular person will naturally depend upon the distance involved, but the Minister suggests that as a general rule assistance might be given to enable a child to be visited by one or both parents not more often than once every two months. There would, however, be no objection to assistance being given more frequently if justified by exceptional circumstances. [1085]

#### AMENDING ORDERS

20. Copies of the amending Orders referred to in paragraphs 4, 10, 13, 14 and 17, above, are enclosed for the information of the Council. In accordance with the proviso to section 137 (1) of the Poor Law Act, 1930, the alterations made by the Orders will come into operation on the expiration of 14 days from the date of this Circular, upon which date the Orders in question were published in the London Gazette in accordance with the provisions of the proviso. [1086]

I am, Sir, etc.

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## POOR RELIEF STATISTICS. RETURN IN FORM B

*Circular 2054**June 26, 1940*

SIR,—1. I am directed by the Minister of Health to inform you that in view of the information furnished in Form H. 301 of the number of persons receiving poor law institutional treatment which is chargeable ultimately to the Exchequer, he considers it desirable, in order to gain uniformity in the compilation of the above-mentioned Return, to issue a further instruction in the matter. [1087]

2. The Ministry's Memorandum H. 299 dated 23rd October, 1939, indicated the manner in which it is desired that the return in Form B should be completed in respect of persons in receipt of poor relief transferred under the Emergency Hospitals Scheme from an institution belonging to one poor law authority to an institution belonging to another poor law authority. [1088]

3. The several classes of persons who receive poor law institutional treatment chargeable primarily to the Council, but ultimately to the Exchequer should not be included in the Return in Form B, as persons in receipt of poor relief. [1089]

4. The Returns in Form B relating to the last Saturday in October, 1939, and subsequent Saturdays to the end of March, 1940, will be amended in the light of the information furnished in Form H. 301. The Minister will be obliged, however, if amended figures compiled on the lines indicated in paragraph 3 of this letter can be furnished, where necessary, in respect of last Saturday in April and May, 1940. [1090]

5. The Minister hopes that the Council will assist the Department by forwarding the Returns in Form B at the earliest date possible after the Saturdays to which they relate. [1091]

6. An additional copy of this Circular is enclosed for the information of the Public Assistance Officer. [1092]

I am, Sir, etc.

## OLD AGE AND WIDOWS' PENSIONS ACT, 1940

*Circular 2105**July 30, 1940*

## EFFECT OF THE ACT

SIR,—1. I am directed by the Minister of Health to draw the attention of the Council to certain matters arising out of the Old Age and Widows' Pensions Act, 1940, which affect the administration of Public Assistance. [1093]

2. As the Council are aware, supplementary pensions may be granted on proof of need to any person of either sex, not being a blind person,

who is entitled to receive weekly payments on account of an old age pension, and also to any widow, not being a blind person, who is entitled to receive weekly payments on account of a widow's pension under the Contributory Pensions Acts and has attained the age of sixty. The first day on which a supplementary pension can be paid to a particular pensioner is the day in the week following the 3rd August, 1940, on which he draws his primary pension. This is set out in greater detail in paragraph 2 of the Assistance Board's Circular B.L.A.1/40 of the 16th May, 1940, and the Council's attention is drawn also to paragraph 9 of that Circular.

The effect of the Eighth Schedule to the Unemployment Act, 1934, as modified and applied by the new Act, is to prohibit, with the exceptions indicated below, the granting of outdoor relief to any person during any period in respect of which an old age pension is payable to him or to any woman who has attained the age of sixty during any period in respect of which a widow's pension is payable to her or to any person whose needs have been taken into account in a determination for the time being in force granting a supplementary pension.

Outdoor relief may, however, be granted to such persons

- (i) in respect of medical needs ;
- (ii) under section 17 of the Poor Law Act, 1930 (*i.e.* in cases of sudden or urgent necessity) ;
- (iii) in respect of any period after the date when the pension began to accrue but before the date on which the person becomes entitled to weekly payments of pension.

The provisions of the Unemployment Assistance Act, 1934, which exclude medical needs from the Assistance Board's province and the complementary provisions of section 53 (2) of that Act, which expressly preserve the powers and duties of Local Authorities in relation to mental or bodily health are applied to supplementary pensioners. The effect is that the Council will be responsible for providing medical and institutional relief to supplementary pensioners when necessary, and since the Assistance Board have no power to bury the body of any deceased person, this also will remain a function of the Council under section 75 of the Poor Law Act, 1930. Section 10 (4) of the new Act provides that "the administration of supplementary pensions shall be conducted in such manner as may best promote the welfare of pensioners," and, while this is a duty laid primarily upon the Assistance Board and their officers, the Minister hopes that the Council will instruct their own officers to co-operate to the extent of their powers with the officers of the Board. [1094]

#### MEDICAL RELIEF

3. The provision of medical relief to supplementary pensioners who require it will, as stated above, remain the duty of the Council, and in order that the machinery for this purpose may be adapted as conveniently as possible to the special circumstances of pensioners the Minister proposes to amend Article 23 of the Public Assistance Order, 1930, so as to facilitate the inclusion of supplementary pensioners in the Permanent Medical Relief List. A copy of the proposed Order is enclosed for the Council's information. The effect of the new Article 23 as drafted is that the Council will be empowered, on application, to include in the

List the names of supplementary pensioners and of those of their dependants who are aged, infirm, etc., and whose needs have been taken into account in calculating the supplementary pension; and that once a pensioner or such a dependant is included in the List, or receives medical relief, during any particular half-year he shall be automatically included for the succeeding half-years so long as a supplementary pension continues to be paid to or in respect of him.

The new Article as drafted provides also that blind persons in receipt of domiciliary financial assistance under the Blind Persons Acts shall be included in the List in the same way as supplementary pensioners. In all cases, however, the Article specifically excludes persons entitled to medical benefit under the National Health Insurance Acts. [1095]

4. The Minister understands from the Assistance Board that their Officers will be prepared to assist supplementary pensioners in making application for inclusion in the List and a form for this purpose (a copy of which is enclosed), will be supplied to applicants by the Board. The form will give particulars of the applicant's financial circumstances as elicited by the Board's officer, and unless the Council have reason to believe, *e.g.* because the applicant possesses capital assets, that he would not be in need of relief if he should require medical attention, the Minister trusts that they will include his name in the List. The Minister considers that this procedure should involve the minimum of work for the Council's officers. [1096]

5. When a supplementary pensioner whose name is not included in the Permanent Medical Relief List is in need of medical relief he may apply to the Relieving Officer in the ordinary way. The Relieving Officer is required by Article 167 (2) of the Public Assistance Order, 1930, forthwith to examine into the circumstances of the case and to make all necessary inquiries, and the Council will no doubt agree that it will be advisable for the Officer to obtain particulars of the applicant's circumstances from the appropriate Area Officer of the Assistance Board. [1097]

6. In order further to simplify the work of Relieving Officers the Minister proposes to amend Article 16 of the Relief Regulation Order, 1930, so as not to require the making out of a case paper when an application for medical relief is made by or on behalf of a supplementary pensioner or a dependant entitled to be included in the Permanent Medical Relief List by virtue of the proposed new Article 23 of the Public Assistance Order, 1930, or a blind person receiving domiciliary financial assistance under the Blind Persons Acts. [1098]

#### DISTRICT NURSING

7. The Council will no doubt appreciate that the scope of the District Nursing Associations in caring for the old and sick is in no way diminished, and may well be increased by the new Act. The Minister therefore hopes that the Council will continue any subscriptions they may be making under section 178 of the Public Health Act, 1936, or, in the case of the London County Council, under section 67 of the Poor Law Act, 1930, and will consider increasing these subscriptions where appropriate. [1099]

## INSTITUTIONAL RELIEF

8. As stated in paragraph 2 above, the duty of providing institutional relief in appropriate cases will also remain with the Council. While in the great majority of cases the needs of pensioners can best be met by the payment of supplementary pensions, some cases will be found in which the pensioner's needs can be met only by his admission to an institution. The officers of the Board have been instructed to discuss such cases with the Relieving Officer, and the Minister is confident that the Council will co-operate with them in making the appropriate arrangements. [1100]

## RECOVERY OF COST OF OUTDOOR RELIEF

9. Subject to the general limitation mentioned below, the Eighth Schedule requires the Assistance Board to pay the cost of outdoor relief granted to a person during any period after the date on which his pension began to accrue (or, in the case of a woman entitled to a widow's pension, after the date on which she attained the age of sixty years or the date on which the widow's pension began to accrue, whichever is the later) but before the date on which the person becomes entitled to receive weekly payments of pension; and also the cost of any relief granted under section 17 of the Poor Law Act, 1930, to a person who is eligible for a supplementary pension. The general limitation referred to above is that repayments are limited to the amount which would have been granted by the Board in like circumstances. Any dispute as to the amount of repayment may be referred to the appropriate appeal tribunal the decision of which is final.

Any claim by the Council for repayment of the cost of relief (except in respect of relief given under Section 17 of the Poor Law Act, 1930) should be made as one with the claim under Section 26 of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, which has replaced Section 16 of the Act of 1929, in accordance with the procedure set forth in paragraph 4 of Circular 1106, of the 9th May, 1930. The Minister will repay to the Council the amount recoverable from arrears of contributory pension and will then pass the claim to the Assistance Board for repayment of the balance subject to the general limitation mentioned above. It should be noted that the Board is not empowered to repay the cost of relief given to a person in any class of pensioners before the first day prescribed for payment of supplementary pensions for persons of that class.

The Minister is informed that the Board will in due course communicate with Local Authorities on the subject of the Eighth Schedule and on the procedure, except so far as it is dealt with above, for effecting financial adjustment under the Schedule. [1101]

## REORGANISATION OF RELIEF DISTRICTS AND STAFF

10. The new Act will reduce very substantially the number of cases of outdoor relief, and the Council no doubt are considering the reorganisation of their relief districts and will, if necessary, submit proposals to the Minister for his consent under Article 20 of the Public Assistance Order, 1930. In considering this the Council should have due regard to the effect of evacuation and present circumstances generally on the administration of poor relief and before coming to a

final decision may think it desirable to allow sufficient time to elapse to give experience of the working of the new Act.

The Council are well aware of the basic principles governing the planning of relief districts—the number of relief cases, the nature of the cases and of the work involved, the travelling facilities in each part of their area and the distances to relief stations, and the numbers, etc., of the existing staff—and the Minister considers that there is no need for him to elaborate these. As stated in paragraph 2 of Circular 1662, of the 22nd November, 1937, one of the cardinal principles of relief is that it should be adapted to meet the needs and circumstances of the particular applicant and his household, and the size of the relief districts, the number of cases in a district and the numbers of relief staff should be such as to enable the Council to ensure that the Relieving Officer visits every new case and keeps in close touch with all other cases on his lists. The Council will no doubt bear in mind that the pensioners transferred under the Act belong to a class not normally subject to frequent changes of circumstances, and that the reduction in the total number of cases to be dealt with cannot be regarded as a direct measure of the reduction of work involved. [1102]

11. The reduction in the number of relief cases will probably involve some reduction of the Council's relief staff, in some cases requiring the Minister's consent under Article 157 of the Public Assistance Order, 1930. The Council's attention is drawn to section 17 of the new Act and in considering the matter they should have regard to the calling up or possible calling up of members of their staff for service with the armed Forces, to the necessity of retaining an adequate staff to operate their emergency relief in kind scheme, and to the increased burden which may possibly be thrown upon the public assistance service at the end of the war. They should in any case take no steps for the termination of the appointments of any of their relief staff until recruiting of staff by the Assistance Board can be regarded as for the time being reasonably complete. [1103]

#### GENERAL

12. The draft Order amending Article 23 of the Public Assistance Order, 1930, provides also for the amendment of Article 17 of that Order, which empowers the Council to pay the travelling expenses of persons on relief to visit inmates of institutions and children evacuated under an evacuation plan, by the inclusion in that Article of the words "at reasonable intervals."

The Orders referred to in paragraphs 3 and 6 above will be made in compliance with the Rules Publication Act, 1893, and will in due course be published in the London Gazette in accordance with the proviso to section 137 (1) of the Poor Law Act, 1930. Copies of the Orders as made will be sent to the Council. [1104]

13. If the Council so wish, the advice and assistance of the Minister's Regional staff will be available to the Council in considering any of the matters referred to in this Circular. [1105]

I am, Sir, etc.

## CASES

*Settlement—Wife and Children deserted by Husband—Wife and Children in Receipt of Poor Relief—Wife and Children on Change of Residence becoming Chargeable to another Local Authority—Order for Removal to Former Locality—Validity—Maintenance Order against Husband—Poor Law Act, 1930 (c. 17), ss. 13, 18, 19 (1), 84 (1), (2), 85 (1), 86 (1), (2), 93 (1) (f), (4).*

From the date of their marriage, August 22, 1918, to June 27, 1922, a husband and his wife resided in the county of London without interruption, and without receiving poor relief. There were three children of the marriage, none of whom had attained the age of sixteen and none of whom was blind or deaf or dumb. From June 28, 1922, to about April, 1933, the husband and wife continued to reside in the county of London, but were from time to time in receipt of poor relief. About April, 1933, the husband deserted his wife and children, and had since lived apart from them. From about April 1933, to May 25, 1937, the wife resided in the county of London, and was continuously in receipt of poor relief for herself and the children, who all lived with her. On November 17, 1933, upon complaint made by the wife, a maintenance order was made against the husband. On May 25, 1937, the wife and children went to live in the county of Essex, and on the following day they all became chargeable to the county of Essex, and remained so chargeable until August 5, 1937, upon which date an order was made for the removal of the wife and children to the county of Middlesex. From April, 1934, onwards, the husband resided in the county of Middlesex without interruption, and without receiving poor relief personally. The question was whether or not under the Poor Law Act, 1930, s. 18 (b), the relief given to the wife and children after April, 1933, the date of desertion, was to be considered as relief given to the husband :—

*Held :* (i) the relief given to the wife, whose husband was living apart from her, must be considered, by reason of s. 18 (b) of the Act, as given to her, and not as given to the husband, who, therefore, during his residence in Middlesex, had not in law been in receipt of relief :

(ii) the husband had acquired a settlement in Middlesex, and, by virtue of s. 85 (1), (2), the wife and children took and followed that settlement, and were thus last legally settled in Middlesex.—MIDDLESEX COUNTY COUNCIL v. ESSEX COUNTY COUNCIL, [1940] 1 K. B. 541 ; [1940] 1 All E. R. 460 ; 109 L. J. K. B. 433 ; 162 L. T. 362 ; 104 J. P. 207 ; 56 T. L. R. 371 ; 84 Sol. Jo. 358 ; 38 L. G. R. 170, D. C. [1106]

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## PUBLIC AUTHORITIES PROTECTION ACT

*See ACTIONS BY AND AGAINST LOCAL AUTHORITIES.*

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# PUBLIC UTILITY UNDERTAKINGS

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## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL AMENDING REGULATION . . . 56 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 563*

*April 17, 1940*

\* \* \* \*

3. In paragraph (1) of Regulation fifty-six of the principal Regulations, after the word "directions", where that word occurs for the second time, there shall be inserted the words "and the making of such orders", and at the end of the paragraph there shall be inserted the words "or is under the control of the Minister of Transport by virtue of an order made under Regulation sixty-nine of these Regulations." [1107]

\* \* \* \*

### COURTS (EMERGENCY POWERS) (EXEMPTION) ORDER, 1940

*S. R. & O., 1940, No. 836*

*May 29, 1940*

At the Court at Buckingham Palace, the 29th day of May, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of subsection (6) of section one of the Courts (Emergency Powers) Act, 1939, and subsection (5) of section one of the Courts (Emergency Powers) (Scotland) Act, 1939, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows :—

1.—(1) The restriction imposed by subsection (2) of section one of the Courts (Emergency Powers) Act, 1939, shall not apply in relation to the exercise by any undertakers to which this Order applies of any right or power to sell goods in their custody, as bailees, being a right or power arising by reason of a default in the payment of charges due to the undertakers in respect of services rendered by them in relation to the goods :

Provided that this provision shall not apply to any goods, other than goods deposited in a cloakroom or lost property office under the control of the undertakers, if the only services rendered by the undertakers were rendered in connection with the warehousing of the goods.

(2) This Order applies to undertakers carrying on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour or pier undertaking.

(3) The foregoing provisions of this Order shall apply to Scotland with the substitution for the reference to the Courts (Emergency Powers) Act, 1939, of a reference to the Courts (Emergency Powers) (Scotland) Act, 1939, and with the omission of the words "as bailees". [1108]

2. This Order may be cited as the Courts (Emergency Powers) (Exemption) Order, 1940. [1109]

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## RATES AND RATING

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## STATUTES

### RATING AND VALUATION (POSTPONEMENT OF VALUATIONS) ACT, 1940

(3 & 4 GEO. 6, c. 12)

#### PRELIMINARY NOTE

This short Act is designed to avoid the expenditure of time of Local Authorities, in preparing new valuation lists under the enactments dealing with rating and valuation, and to correct, in relation to London, certain technical difficulties which might prevent relief being given in respect of a fall in value as a consequence of the war.

*An Act to postpone the making of new valuation lists for rating purposes in England, and for purposes connected therewith.* [21st March 1940.]

**1. Postponement of next valuation till after end of emergency.—**

(1) The period for which the valuation lists in force under the Valuation (Metropolis) Act, 1869, on the date of the passing of this Act shall remain in force is hereby extended until the fifth day of April in the prescribed year, and section forty-six of that Act shall, in relation to that period, have effect as if the references to the first four years, the fifth year, and the last four years, of the period were respectively references to every year except the last year, the last year, and every year except the first year, of the period.

(2) While the said valuation lists remain in force, any increase or reduction in value attributable directly or indirectly to the present emergency, to the extent that the increase or reduction—

- (a) is peculiar to a particular hereditament ; or
- (b) affects a particular hereditament and also other hereditaments of a comparable character in the rating area in question but does not represent a general alteration in the values of all classes, or substantially all classes, of hereditaments in that area,

shall, in relation to that hereditament, be deemed to be an alteration in the matters stated in the valuation list within the meaning of paragraph (1) of section forty-six of the said Act (which relates to supplemental lists) and to be such an increase or reduction in value as is referred to in section forty-seven of the said Act (which relates to provisional lists).

This subsection shall apply in relation to any such increase or reduction as aforesaid whether it occurred before or after the passing of this Act, and any such increase or reduction—

- (i) shall be taken into account for the purposes of the said section forty-seven notwithstanding that it occurred before the beginning of the year ; and
- (ii) shall, if a provisional list or a requisition for a provisional list has been made in the preceding twelve months in respect of the hereditament, be taken into account for the purposes of any revision under the said section forty-six, notwithstanding that the increase or reduction occurred before the beginning of those twelve months.

For ss. 46, 47 of the Valuation (Metropolis) Act, 1869, see 14 Statutes 571-5.

Under s. 47 (1) a provisional list must be made when the value of any hereditament is increased or reduced in value in any year during a quinquennium by reason of a cause. It appears to be established that a state of war is not a "cause" (see *Camberwell Assessment Committee v. Ellis*, [1900] A. C. 510, 38 Digest 642, 1601). Under the Act of 1869 the relief is limited to the effect of the "cause". Under the present Act, full relief is given, less so much as represents a general alteration in values. The meaning of this expression, and of "classes of hereditaments" will need elucidation by the Courts. Note, however, that the word "general" is used, not "average".

(3) In subsection (1) of section one of the Rating and Valuation (Postponement of Valuations) Act, 1938, for the reference to the first day of April, nineteen hundred and forty-one, there shall be substituted a reference to the first day of April in the prescribed year.

The Rating and Valuation (Postponement of Valuations) Act, 1938 (31 Statutes 613) postponed the third valuation under the Rating and Valuation Act, 1925, s. 19 (14 Statutes 644), until 1941, so as to standardise the dates throughout the country (subject to certain powers of the Minister with respect to the alteration of dates). The present section further postpones the third valuation to a date to be appointed.

(4) In this section, the expression "the prescribed year" means such year as His Majesty may by Order in Council appoint, not being later than the second year after that in which the end of the present emergency falls; and in this subsection the word "year" means a year beginning with the first day of January, and the expression "the end of the present emergency" means such date as may be declared by His Majesty under the Courts (Emergency Powers) Act, 1939, to be the date on which the emergency that was the occasion of the passing of that Act came to an end. [1110]

**2. Short title and citation.**—This Act may be cited as the Rating and Valuation (Postponement of Valuations) Act, 1940, and the Rating and Valuation Acts, 1925 to 1938, and this Act may be cited together as the Rating and Valuation Acts, 1925 to 1940, and the Rating and Valuation (Metropolis) Acts, 1869 to 1938, and this Act may be cited together as the Rating and Valuation (Metropolis) Acts, 1869 to 1940. [1111]

## REMISSION OF RATES (LONDON) ACT, 1940

(3 & 4 GEO. 6, c. 32)

### PRELIMINARY NOTE

This Act is designed to amend, for the period during which abnormal conditions may be expected to prevail, the law governing the procedure for the remission of rates in the administrative county of London, and to bring it into accord with the law which has been operative outside London since 1925 by making applicable to London the provisions of the Rating and Valuation Act, 1925, which empower a rating authority to reduce or remit the payment of any general rate on account of the poverty of the ratepayer.

The London rating authorities are thus given a discretion which has been enjoyed by the provincial authorities for 15 years. Hitherto, the London ratepayer, unable to meet his rate liabilities from circumstances beyond his control, has had to wait until he was summoned for non-payment, and obtain remission or reduction from the justices. Now, he can put his case directly before the rating authority, who will be able to grant a remission or rebate without the ratepayer having to appear before the justices and plead poverty in open court.

Since the Poor Relief Act, 1814 (14 Statutes 495) justices in petty sessions have been empowered, with the consent of parish officers, to discharge poor persons from the payment of parish rates, and this Act will relieve justices of an often unpleasant duty of committing to prison a defaulter unable to prove that he had no means.

Although the Act is not, strictly speaking, retrospective, it applies to arrears of rates for however long past, provided that no summons has been heard by the courts.

*An Act to extend to London the power of rating authorities under the Rating and Valuation Act, 1925, to reduce or remit rates.* [1112]

[27th June 1940.]

**1. Extension to London of power to reduce or remit rates.**—Subsection (4) of section two of the Rating and Valuation Act, 1925 (which empowers rating authorities to reduce or remit the payment of any general rate) shall extend to the administrative county of London, and the references in that subsection to a rating authority and to any

general rate shall be construed accordingly, subject to the modification that, in the case of the city of London, the reference to any general rate shall include a reference to the poor rate. [1113]

S. 2 (4) of the Rating and Valuation Act, 1925 (14 Statutes 620) provides that "a rating authority shall have power to reduce or remit the payment of any general rate on account of the poverty of any person liable to the payment thereof"; by s. 70 (14 *ibid.*, 690) the Act is not to extend to the administrative county of London.

**2. Short title and duration.**—(1) This Act may be cited as the Remission of Rates (London) Act, 1940.

(2) This Act shall continue in force until the end of the period of two years beginning with such date as may be declared by His Majesty under the Courts (Emergency Powers) Act, 1939, to be the date on which the emergency that was the occasion of the passing of that Act came to an end, and shall then expire except as respects things previously done or omitted to be done. [1114]

## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL ADDING REGULATION . . . 54BA TO . . . THE DEFENCE (GENERAL) REGULA- TIONS, 1939

*S. R. & O.*, 1940, No. 1885

October 24, 1940

\* \* \* \*

4. After Regulation fifty-four B of the principal Regulations, there shall be inserted the following Regulation:—

**54BA. "Supplementary provisions as to local authorities.**—(1) . . .

(2) The Minister of Health, if he considers it expedient so to do in the interests of the public safety, the defence of the realm, the maintenance of public order or the efficient prosecution of the war, or for maintaining supplies or services essential to the life of the community, may give directions with respect to any local authority being a rating authority—

(a) in the case of any such authority, for reducing the amount payable by that authority under any precept issued by a county council;

(b) in the case of any such authority being a rating authority within the meaning of the Rating and Valuation Act, 1925, for varying the manner in which estimates of the product of a penny rate are to be made by that authority for the purpose of any such precept.

(3) In the application of this Regulation to Scotland—

. . .

(4) This Regulation shall not extend to Northern Ireland." [1115]

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## CASES

*Agricultural Hereditament—Land Partly used for Purposes of Motor-cycle Track Racing—but Otherwise used as Pasture Land—Whether Separately Rateable Hereditament—Rating and Valuation (Apportionment) Act, 1928 (c. 44), s. 2 (2).*

A. occupied a farm comprising eleven fields, which, as an agricultural hereditament, did not appear in the valuation list. At all material times, one of the fields was used by A. for pasturing cattle in connection with his business as a farmer, but, on two afternoons in 1937 and on four afternoons in 1938, the field was used by a motor cycle and light car club for the holding of motor-cycle grass track race meetings, when the charge for admission was 1s. per head, and in addition charges were made for motor cars, motor cycles and bicycles taken into the field or parked in the adjoining field. On these occasions, the club took £356 in gate money, after allowing for tax. In addition, the club obtained some receipts by letting the right to supply refreshments. Certain money received by the club on these occasions was expended in prize money and expenses. The club paid to A. for the use of the field the sum of 10s. per 100 spectators, and during 1938 the sum of £42 14s. was so paid. A proposal was made by the rating authority to amend the valuation list by the insertion therein of the field as a separately rateable hereditament, on the grounds that it was occupied and used as a race-course, that it was not land used as pasture ground only, and that it was not agricultural land within the meaning of the Rating and Valuation (Apportionment) Act, 1928, s. 2 (2):—

*Held*: the field was a separately rateable hereditament, and, on the facts found, had been used as a racecourse within the meaning of the Rating and Valuation (Apportionment) Act, 1928, s. 2 (2).

Decision of Divisional Court ([1940] 1 All E. R. 289), reversed.—*WIMBORNE AND CRANBORNE RURAL DISTRICT COUNCIL v. EAST DORSET ASSESSMENT COMMITTEE*, [1940] 2 K. B. 420; [1940] 3 All E. R. 201; 163 L. T. 241; 104 J. P. 351; 56 T. L. R. 867; 84 Sol. Jo. 644; 38 L. G. R. 315, C. A. [1116]

*Beneficial Occupation—Bungalows Advertised to be Let Furnished or Unfurnished—Whether Owner in Beneficial Occupation.*

Appellant owned four bungalows, which were let furnished from time to time from early in 1937 till September 30, 1938. From that date, however, they were at all times uninhabited. The furniture was removed and the water was turned off. The furniture, however, was stored in a fifth bungalow and a sixth was used for show purposes. Both these bungalows were in the same place and owned by appellant. Appellant was willing at all times of the year to let the bungalows, either furnished or unfurnished, and they were in the hands of an agent for that purpose, and were advertised as being so to let. It was contended by respondent, the collector of rates for the urban district in which the bungalows were situated, that appellant was in beneficial occupation of the bungalows from and after September 30, 1938:—

*Held*: appellant was in beneficial occupation of the bungalows at the material time.—*BAYLISS v. CHATTERS*, [1940] 1 All E. R. 620; 84 Sol. Jo. 116; 38 L. G. R. 185, D. C. [1117]

*Exemptions—School Incorporated “to further research in . . . the languages of Eastern and African Peoples”—Supported in part by Annual*

*Voluntary Contributions—Whether Instituted for “purposes of science, literature or the fine arts exclusively” —Scientific Societies Act, 1843 (c. 36), s. 1.*

A school was incorporated by royal charter in 1916, and its purposes were “to further research in, and to extend the study and knowledge of the languages of Eastern and African peoples, ancient and modern, and the literature, history, religion, law, customs and art of those peoples . . . including courses suitable to the needs of persons about to proceed to the East or to Africa for study and research, for the public services or commerce, or for the pursuit of a profession or other calling . . .” The school, which was supported in part by annual voluntary contributions, was rated as occupier of a hereditament used for carrying into effect its purposes. Exemption from rates was claimed under the Scientific Societies Act, 1843, s. 1, on the ground that the school was instituted for the purposes of science, literature or the fine arts exclusively:—

*Held:* upon the facts before them, the court of quarter sessions were right in law in holding that the school was not instituted for the purposes of science, literature or the fine arts exclusively.—*SCHOOL OF ORIENTAL AND AFRICAN STUDIES v. WESTMINSTER CITY RATING AUTHORITY*, [1940] 2 All E. R. 537, D. C. [1118]

*Basis of Assessment—Electricity undertaking—Limiting Profits Basis to accounts for Year preceding Date of Assessment—Whether “Special Circumstances” rendering Profits Basis Inapplicable—Rating and Valuation Act, 1925 (c. 90), s. 31 (5).*

The hereditament occupied by respondents in the area of appellants, consisting of pilot wires of an electricity substation or transformer station and certain transmission towers and lines, was assessed in appellants' valuation list at a rateable value of £1,244, and on May 26, 1934, respondents, by a proposal, objected to the assessment on the ground that it was excessive and unfair. On January 18, 1935, appellants made a proposal to amend the list by increasing the assessment to £8,436, and respondents duly objected thereto. The proposals and the objection were heard by the local assessment committee on October 19, 1936, and March 15, 1937, when they decided to amend the list by increasing the assessment to £2,100, which increase was affirmed on appeal to quarter sessions by appellants, who then appealed against the decision of quarter sessions. At the hearing before quarter sessions, evidence relating to the estimates and the accounts of respondents subsequent to 1934 was excluded as irrelevant. Appellants contended that there was no justification in law for limiting the profits basis to the accounts for the year preceding the date of the assessment, and that there were “special circumstances” existing at April 1, 1934, which in law made the profits basis inapplicable, or required it to be modified. Respondents contended that the statutory hypothetical tenant from year to year was not a tenant for a term certain, and in particular not a tenant for a term of ten years, that the evidence was thus rightly excluded as irrelevant, and that there were no special circumstances rendering the profits basis inapplicable:—

*Held:* (i) there were no special circumstances which rendered the profits basis inapplicable;

(ii) evidence relating to the accounts subsequent to 1934 was rightly excluded as irrelevant;

(iii) as the estimates subsequent to 1934 were private documents of respondents, they could not be forced to produce them and to put them in evidence.

Decision of the Divisional Court (Lord Hewart, L.C.J., Humphreys and Hilbery, JJ., [1940] 2 All E. R. 341), affirmed.—*BARKING BOROUGH RATING AUTHORITY v. CENTRAL ELECTRICITY BOARD*, [1940] 2 K. B. 493; [1940] 3 All E. R. 477; 109 L. J. K. B. 778; 163 L. T. 214; 104 J. P. 363; 56 T. L. R. 928; 38 L. G. R. 382; 84 Sol. Jo. 548, C. A. [1119]

*Assessment—Provisional List—Objection to Proposed Assessment—Judicial discretion of Assessment Committee—Report of Competent Valuer not seen by Parties concerned—Rating and Valuation Act, 1925 (c. 90), s. 38, Sched. IV, Part III, para. 3.*

On objection being taken to certain provisional assessments of appellants' property, the assessment committee requested a rating surveyor representing applicants to consult with the city valuer with a view to endeavouring to agree the figures in respect of the property. The surveyor and valuer agreed the figures at £16,125 gross and £13,434 rateable, and then appeared before the committee and announced these figures. The committee then adjourned, and at a subsequent meeting decided to amend the list by putting in the values of £25,800 gross and £21,497 rateable value. It was stated in an affidavit by a member of the committee that, in addition to the above information, they had also had before them a general report from one E., a well-known surveyor, as to the effect of the war on the value of hotels and the factors producing such effect. Applicants asked for an order of *certiorari* to quash the determination of the committee, and for an order of *mandamus* ordering the committee to determine the objection by substituting for the values entered in the provisional valuation list the values gross value £16,125, rateable value £13,434 :—

*Held*: (i) the assessment committee was not bound to accept the figures agreed between the rating authority and the ratepayer;

(ii) in view of the fact that the committee considered and gave weight to evidence which was not communicated to the parties, respondents were entitled to have the determination of the committee quashed.

*Per* Clauson and du Parcq, L.JJ.: after hearing all evidence and argument in a judicial spirit, the committee must exercise its own judgment.

Decision of Divisional Court ([1940] 3 All E. R. 241) affirmed on other grounds.—*R. v. WESTMINSTER ASSESSMENT COMMITTEE, Ex parte GROSVENOR HOUSE*, [1940] 4 All E. R. 132; 104 J. P. 428; 57 T. L. R. 57, C. A. [1120]

*Assessment Committee—Procedure—Inspection of Property—Appeal to Quarter Sessions—Jurisdiction of Quarter Sessions—Rating and Valuation Act, 1925 (c. 90), ss. 18 (3), 31 (1), (4).*

In the course of a meeting of the assessment committee for the purpose of assessing a house, the committee decided that some of their members should inspect the property. They did so, and, at the time of the inspection, the owner of the property was present and took no objection. The county valuation committee had authorised the county valuer to attend the meeting of the committee on behalf of the rating authority, and he attended for that purpose, and not as appearing for the county valuation committee. No notice was given of his intention

to appear. The owner of the property appealed to quarter sessions upon grounds based on the above matters, but quarter sessions dismissed the appeal as being based on grounds with which they had no jurisdiction to deal :—

*Held* : (i) the assessment committee had no legal right to inspect property themselves, but no objection could be taken on this ground as the owner did not at the time object to the inspection ;

(ii) a county valuer may attend a meeting of the assessment committee for the purpose of assisting the rating authority, and may do so without giving any notice of his intention to appear ;

(iii) the jurisdiction of quarter sessions upon such an appeal is restricted to the correctness of the valuation, and they cannot entertain any objection to the procedure of the assessment committee.—*HULME v. BUCKLOW AREA ASSESSMENT COMMITTEE AND WILMSLOW RATING AUTHORITY*, [1940] 2 K. B. 255 ; [1940] 3 All E. R. 79 ; 109 L. J. K. B. 644 ; 163 L. T. 243 ; 104 J. P. 330 ; 56 T. L. R. 793 ; 38 L. G. R. 294 ; 84 Sol. Jo. 575, D. C. [1121]

*Flats—Provision of Services and Amenities by Landlord—Ascertainment of Gross Rateable Value—Valuation (Metropolis) Act, 1869 (c. 67), s. 4.*

The owners of a block of flats let them to tenants at rents including payment for services and amenities provided by them and also for the use by the tenants of common parts of the building which the owners maintained. The owners claimed to deduct from the gross rents the costs of the services and amenities provided. They claimed in particular to deduct (a) £534 in respect of the cost of repairing and maintaining the passages, stairways, lifts, staff-rooms and ornamental grounds ; (b) £763 in respect of depreciation of plant, machinery, boilers, refrigerators, wirelesses and of the portions of the building used to house such installations ; (c) £530 in respect of managing and supervising the services provided ; (d) £310 in respect of unproductive expenditure on services by reason of vacant flats ; (e) £932, being 25 per cent. of the annual cost of the services, by way of profit ; (f) £783 by way of interest upon the capital cost of plant and machinery and portions of the building used for the provision of the services ; and (g) that the deduction in respect of rates should take into account the possibility of an increase in rates. On this appeal the claim to deduct items (f) and (g) was abandoned by the owners :—

*Held* : (i) the cost of providing the services and amenities and a sum representing the profits thereon would properly be deductible from the gross rents for the purpose of determining the gross rateable value ;

(ii) items (a) to (e) above were proper deductions.

*Pullen v. St. Saviour's Union*, [1900] 1 Q. B. 138 ; 38 Digest 519, 697, overruled.—*BELL PROPERTY TRUST, LTD. v. HAMPSTEAD BOROUGH ASSESSMENT COMMITTEE*, [1940] 2 K. B. 543 ; [1940] 3 All E. R. 640 ; 109 L. J. K. B. 792 ; 163 L. T. 292 ; 104 J. P. 411 ; 57 T. L. R. 10 ; 84 Sol. Jo. 535 ; 38 L. G. R. 393, C. A. [1122]

*Assessment—Provisional List—Alteration in Value—"Cause"—Valuation (Metropolis) Act, 1869 (c. 67), s. 47.*

The trustees and committee of a London club applied for a reduction of the assessment of the club to rates on account of the reduction in the revenue of the club due to the lighting and petrol restrictions and general dislocation consequent on the war :—

*Held*: these were matters which affected not only the club property, but property generally, and were not a "cause" within the meaning of that word in the Valuation (Metropolis) Act, 1869, s. 47.—*R. v. WESTMINSTER ASSESSMENT COMMITTEE, Ex parte JUNIOR CARLTON CLUB (TRUSTEES)*, [1940] 3 All E. R. 155; 104 J. P. 344; 84 Sol. Jo. 596; 38 L. G. R. 326, D. C. [1123]

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## RATING OF OWNERS

*See RATES AND RATING.*

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## RATING OF SPECIAL PROPERTIES

*See RATES AND RATING.*

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## RECORDER

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## CASES

*Borough Quarter Sessions—Recorder—Custom for Magistrates to Sit with Recorder—Validity of Proceedings.*

At the hearing of an appeal against the valuation of a cinema theatre, the recorder of the borough, sitting as sole judge, was accompanied on the bench by a local magistrate, who did not assist the recorder in adjudicating upon the appeal, but on one occasion, as an accountant, suggested a question to the recorder, who invited counsel to put it to the witness. As counsel did not ask it, the recorder put it himself. The recorder heard the case at great length, and reserved his decision for months. It was now sought on this ground to challenge the regularity and legality of the recorder's exercise of his functions and duties:—

*Held*: the presence of the borough magistrate on the bench and the fact that he suggested a question to the recorder had in no way influenced the recorder's decision. He had exercised his functions and duties as recorder in a regular and legal manner, and the objection taken was without foundation.—*R. v. RECORDER OF BURNLEY, Ex parte NEW EMPIRE (BURNLEY), LTD.*, [1940] 2 All E. R. 412, D. C. [1124]

*New Trial—Jurisdiction of Court of Criminal Appeal—Trial a Nullity—Deputy Recorder not Qualified for Appointment.*

Appellant was convicted at a borough quarter sessions of dangerous driving after a trial before one D., who was purporting to act as deputy recorder by virtue of an appointment in writing under the hand of the recorder, who was himself unable to be present. In fact, D. was not a

barrister, and was not, therefore, eligible for appointment as a recorder's deputy under the Municipal Corporations Act, 1882, s. 166 (1):—

*Held*: the proceedings were void *ab initio*, and the conviction must be set aside and annulled, and appellant must appear at the next quarter sessions to take his trial upon the indictment.—*R. v. CRONIN*, [1940] 1 All E. R. 618; 162 L. T. 423; 104 J. P. 216; 56 T. L. R. 457; 84 Sol. Jo. 222; 38 L. G. R. 182; 27 Cr. App. Rep. 179, C. A. [1125]

## REFUSE

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## ORDERS, CIRCULARS AND MEMORANDA

### SALVAGE OF WASTE MATERIALS (NO. 1) ORDER, 1940

*S. R. & O.*, 1940, No. 1950

November 7, 1940

Whereas it appears to the Minister of Supply to be necessary for maintaining supplies and services essential to the life of the community and expedient that this Order should be made :

Now, therefore, the Minister of Supply in exercise of the powers conferred on him by Regulation 55 of the Defence (General) Regulations, 1939, hereby orders as follows :—

1.—(1) Where any article or material has been deposited in any container or at any place for collection as refuse or salvage by or on behalf of the Local Authority, no person shall take up or remove that article or material from that container or place except on behalf or with the consent of the Local Authority or of the person by whom or on whose behalf the article or material was so deposited.

(2) Where any article or material has been deposited in any container or at any place for collection as refuse or salvage for the purposes of a scheme or service of collection approved by the Local Authority or the Minister of Supply, no person shall take up or remove that article or material from that container or place except (a) for the purposes of that scheme or service of collection, or (b) on behalf or with the consent of the Local Authority or of the Minister of Supply or of the person by whom or on whose behalf the article or material was so deposited.

(3) Nothing herein shall be taken to prohibit or restrict the taking up or removal of any article or material for any purpose connected with the public safety or public order. [1126]

2. This Order shall come into force on the 9th day of November, 1940, and may be cited as the Salvage of Waste Materials (No. 1) Order, 1940. [1127]

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## CASES

*"Incapacity . . . results from the injury"—Dustman—Hernia—Possibility of Recurrence—Declaration of Liability—Workmen's Compensation Act, 1925, s. 9 (1).*

A dustman fell from a ladder while emptying a dustbin into a van and sustained a hernia. As a result he had to wear a truss. The employer having paid compensation for five months gave notice of termination. The workman claimed continuance of the compensation or alternatively a declaration of liability. At the arbitration evidence was given on behalf of the employer by a doctor that the rupture was easily held in place by the truss which he had recommended and which had proved satisfactory, that the workman's condition would not deteriorate by wearing it, and that the workman was capable of his former work, including violent heavy work, but that a jerking strain might cause a recurrence of the hernia. The county court judge accepted the evidence given for the employer. He declined to award any compensation and held that there was no evidence on which he could find that there was reasonable probability of the workman's getting worse. He therefore made his award for the employer. The workman appealed :—

*Held* : on the issue as to a declaration of liability the county court judge had failed to direct himself to the true question which was, whether there was reasonable probability that incapacity for work might ensue as a result of the injury. On that question the workman's right to a declaration of liability had been established by the medical evidence given for the employer.

Appeal allowed. Declaration of liability granted.—*KING v. SOUTH-GATE BOROUGH COUNCIL* (1940), 32 B. W. C. C. 278, C. A. [1128]

## REGULATED INDUSTRIES, TRADES AND BUSINESSES

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## ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL ADDING REGULATION 57B TO,  
AND AMENDING REGULATION 80A OF, THE  
DEFENCE (GENERAL) REGULATIONS, 1939*S. R. & O., 1940, No. 1517**August 20, 1940*

At the Court at Buckingham Palace, the 20th day of August, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows :—

1. After Regulation fifty-seven A of the Defence (General) Regulations, 1939, the following Regulation shall be inserted :—

**57B. "Relaxation of enactments relating to dealers in old metal.—**

(1) Subsections (1) to (3) of section eighty-six of the Public Health Acts Amendment Act, 1907 (which requires dealers in old metal and marine stores to be registered), and any enactment to the like effect contained in any local Act in force in England or Northern Ireland, shall not, during the continuance in force of this Regulation, apply to any person except—

- (a) a person registered at the date of this Regulation under the said section or under any such enactment ; or
- (b) a person carrying on business as a dealer in old metal or marine stores in any county borough or county district in which the said section or any such enactment is in force, being a person on whom the council of the borough or district have served a notice that the said section or enactment applies to him.

(2) The power conferred by subsection (4) of the said section eighty-six, or by any enactment to the like effect contained in any such local Act as aforesaid, to enter and inspect the premises and inspect the books of persons required to be registered as dealers in old metal or marine stores, shall be deemed to include power to enter and inspect the premises and inspect the books of persons who would but for this Regulation be required to be so registered, and the said subsection (4) and any such enactment shall be construed accordingly.

(3) Section thirteen of the Prevention of Crimes Act, 1871 (which restricts the purchase of metals mentioned in the Schedule to that Act), shall have effect as if in that Schedule the words from 'Copper' to the end of the Schedule were omitted."

2. Paragraph (1) of Regulation eighty A of the Defence (General) Regulations, 1939, shall be amended by inserting after the words "the Admiralty" the words "the Board of Trade". [1129]

# ORDER IN COUNCIL AMENDING ORDER IN COUNCIL (NO. 6) RELATING TO STORES LICENSED FOR MIXED EXPLOSIVES

*S. R. & O., 1940, No. 1992*

*November 8, 1940*

At the Court at Buckingham Palace, the 8th day of November, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of the Explosives Act, 1875, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that the Order in Council dated 27th November, 1875, relating to stores licensed for mixed explosives shall be altered as follows :—

In paragraph 4 of Part I for the words " half a pound ", wherever those words occur, there shall be substituted the words " one pound. "  
[1130]

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## COMPRESSED GAS CYLINDERS (FUEL FOR MOTOR VEHICLES) REGULATIONS, 1940

*S. R. & O., 1940, No. 2009*

*November 18, 1940*

In pursuance of the powers conferred on me by section 6 of the Petroleum (Consolidation) Act, 1928, as applied by Order in Council dated the 20th January, 1930, I hereby make the following Regulations for the conveyance by road of cylinders (other than cylinders which comply with the Gas Cylinders (Conveyance) Regulations, 1931), which (i) contain any of the gases specified in the First Schedule to these Regulations in a compressed state, and (ii) during conveyance are fitted to a motor vehicle or a trailer and intended for the storage of compressed gas for the purpose of the propulsion of the vehicle to which they are fitted or the drawing vehicle as the case may be.

1. No cylinder to which these Regulations apply shall be used unless—

- (i) it has been constructed by a cylinder manufacturer approved in writing by the Secretary of State for the purposes of these Regulations, and
- (ii) it has been constructed in accordance with the Specification contained in Part I of the Second Schedule to these Regulations and also with either Specification A or Specification B contained in Part II of that Schedule, and has complied with the tests and other requirements described in those Specifications, the method of manufacture and testing of cylinders of

this class at the works of the manufacturer being carried out to the satisfaction of an inspecting authority approved in writing by the Secretary of State for the purposes of these Regulations. [1181]

2. Each cylinder valve and other fitting shall be of forged steel, or of brass or bronze complying with the specification contained in the Third Schedule to these Regulations. [1182]

3. Each cylinder, or the valve or other fitting of such cylinder, shall be provided either with a fusible plug designed to fuse at 150° C. or with a bursting disc designed to operate at a pressure  $1\frac{1}{2}$  times the designed working pressure of the cylinder. [1183]

4. Each cylinder and its valves and fittings shall be maintained in good condition. [1184]

5. The working or internal pressure in any cylinder shall not exceed that for which the cylinder has been designed, and in any case shall not exceed 3,000 lbs. per square inch for cylinders constructed in accordance with the said Specification A and 1,800 lbs. per square inch for cylinders constructed in accordance with the said Specification B. [1185]

6. No cylinder shall be filled with gas unless it has been submitted within the preceding 2 years to the hydraulic stretch test described in the specification contained in Part II of the Second Schedule to these Regulations in accordance with which it was constructed. Prior to any hydraulic stretch test the cylinder shall be thoroughly cleaned and examined externally, and, so far as practicable, internally, for surface defects, corrosion and foreign matter. Where internal rust or foreign matter is observed the cylinder shall, prior to the hydraulic stretch test, be heated to a temperature not exceeding 300° C. and again cleaned and examined. After each hydraulic stretch test and before being taken into use the cylinder shall be thoroughly dried internally and clearly and permanently marked on the neck end with marks and figures indicating the person or firm who made the test and the date of the test as specified in Regulation 9. Any cylinder which fails to pass the test shall not thereafter be used for the conveyance by road of any compressed gas named in the First Schedule to these Regulations, and shall be rendered unserviceable for such use. [1186]

7. Except as provided in Regulation 6 and paragraphs 9, 14, 17, 21, 26 and 27 of the Second Schedule to these Regulations, no cylinder after completion of manufacture shall be subjected to any heat treatment process or be mechanically altered in any way. [1187]

8. No cylinder shall be filled with any of the gases specified in the First Schedule to these Regulations, unless steps have been taken to ensure that, at the time of filling, the gas is free from hydrogen sulphide and is, as far as is reasonably practicable, free from moisture and organic sulphur impurities. [1188]

9. Each cylinder shall be permanently and clearly marked with :—

(a) the manufacturer's identification mark and the rotation number of the cylinder ;

- (b) the date of the last hydraulic stretch test (this date may be indicated by the month and year, or by the year with a symbol to denote the quarter of the year), and the identification mark of the person or firm who made the test ;
- (c) a mark indicating the specification in Part II of the Second Schedule to these Regulations, in accordance with which the cylinder was constructed, viz. GP for Specification A, and GPM for Specification B or the corresponding British Standards Institution specification marks. [1139]

10. Every cylinder shall be securely attached to the vehicle or trailer on which it is being conveyed. [1140]

11. There shall be affixed to every vehicle or trailer on which any cylinder is being conveyed, and maintained in a legible condition, a notice showing as respects each cylinder for the time being conveyed thereon :—

- (a) the manufacturer's identification mark and the rotation number of the cylinder ;
- (b) the water capacity of the cylinder in cubic feet ;
- (c) the date of manufacture of the cylinder ;
- (d) the date of the last hydraulic stretch test of the cylinder ; and
- (e) the working pressure of the cylinder. [1141]

12. Each cylinder shall be clearly marked in a distinctive paint with the words "FOR GAS PROPULSION ONLY, WORKING PRESSURE— LBS. PER SQUARE INCH " and with the water capacity in cubic feet. The figure for working pressure shall be that for which the cylinder is designed. [1142]

13. Not less than one year after the construction of any batch of cylinders, and subsequently at such intervals, not being less than one year, as the Secretary of State may direct, samples from the batch shall, if so directed by the Secretary of State, be withdrawn for tests and examination as so directed.

For the purposes of these Regulations, cylinders shall not be regarded as belonging to the same batch unless they have been made at the same time and are of similar analysis heat-treated in the same manner and at the same temperature  $\pm 20^{\circ}$  C. [1143]

14. If the Secretary of State is satisfied that it is expedient so to do, he may after a period of six years from the date of manufacture of any cylinder by order direct that it shall not thereafter be used for the conveyance by road of any compressed gas named in the First Schedule to these Regulations. No cylinder in respect of which such an order is made shall thereafter be used for such conveyance and every such cylinder shall be rendered unserviceable for such use. [1144]

15. The owner of a vehicle or trailer fitted with cylinders for gas propulsion who employs any person in connection with such vehicle or trailer shall take measures to ensure that every such person is acquainted with and carries out the provisions of these Regulations, so far as lies within the scope of his duties. [1145]

16. In proceedings for a breach of Regulation 1 in respect of the material, manufacture or testing of cylinders, it shall be a good defence

to produce a certificate from the makers stating that the cylinders and the steel of which they were constructed were manufactured and tested in accordance with the requirements of Regulation 1 of these Regulations. [1146]

17. Nothing in the Gas Cylinders (Conveyance) Regulations, 1931, shall apply to cylinders to which these Regulations apply. [1147]

18. The requirements of these Regulations shall be in addition to and not in derogation of any requirements of Regulations made by the Minister of Transport under powers conferred upon him by the Road Traffic Act, 1930 or any other Act. [1148]

19.—(1) If the Secretary of State is satisfied that in respect of any class of cylinder or any mode of conveyance any of the provisions of these Regulations may be safely suspended or relaxed, he may by Order authorise such suspension or relaxation for such period or under such conditions as he may think fit.

(2) Any such Order may be revoked or varied by the Secretary of State at any time. [1149]

20. These Regulations may be cited as The Compressed Gas Cylinders (Fuel for Motor Vehicles) Regulations, 1940, and shall come into force on 1st December, 1940, as from which date the Compressed Gas Cylinders (Fuel for Motor Vehicles) Provisional Regulations, 1933, shall be revoked.

Provided that cylinders constructed before that date in accordance with Regulation 1 of the Provisional Regulations shall be deemed to comply with Regulation 1 of these Regulations. [1150]

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## FIRST SCHEDULE

Coal gas, carbon monoxide, hydrogen and methane. [1151]

## SECOND SCHEDULE

### PART I

#### GENERAL SPECIFICATION

##### *Quality of Material.*

1. The steel used in the manufacture of the cylinders shall have been made by the acid or basic open hearth process or in an electric furnace, by a steel manufacturer who is approved in writing by the Secretary of State for the purposes of these Regulations, and who affords to the cylinder manufacturer facilities for inspection of the steel at the steel manufacturer's works.

##### *Steel Maker's Certificate.*

2. The cylinder manufacturer shall have obtained from the steel manufacturer a certificate that the material from which the billets specified in the certificate have been produced has been made by one of the processes specified in paragraph 1 and giving details of the chemical analyses.

##### *Marking of Billets.*

3. Billets shall be marked and records shall be kept so as to enable the material from which any cylinder is made to be identified.

*Manufacture of Cylinders.*

4. The cylinders shall be solid drawn or shall be made from seamless steel tube.

*Results of Tests.*

5. A record shall be kept by the cylinder manufacturer of all tests required to be made by these Regulations and of their results, and copies of such records shall be forwarded to the purchasers of the cylinders.

If any of the tests specified in this Schedule results in a cylinder or batch of cylinders failing to pass the test, the cylinder or batch as the case may be shall be rendered unserviceable for the conveyance by road of any of the compressed gases named in the First Schedule to these Regulations.

## PART II

## SPECIFICATION A

*Chemical Composition.*

6. The composition of the steel used in the manufacture of the cylinders shall be left to the discretion of the steel manufacturers, provided that the proportion of :—

Silicon shall not exceed 0.30 per cent.

Sulphur shall not exceed 0.04 per cent.

Phosphorus shall not exceed 0.04 per cent.

*Thickness of Cylinder Walls.*

7. The thickness of the cylinder wall shall be not less than the value of  $t$  (in inches) given by the following formula :—

$$t = \frac{pD}{2f + p} = 0.035D.$$

where  $p$  = the maximum working pressure of 3,000 lbs. per square inch.

$f$  = the maximum working stress of 41,000 lbs. per square inch.

$D$  = external diameter in inches.

The neck of the cylinder shall be of sufficient strength to prevent permanent distortion during the fitting of the valves or other connection.

*Examination of Cylinder before Closing-in.*

8. Each cylinder shall be examined before the closing-in operations for maximum and minimum thickness and or external and internal surface defects. The tolerance on wall thickness shall be +25 per cent.—0.

*Heat Treatment.*

9. The heat treatment to which each cylinder is subjected is left to the discretion of the cylinder manufacturer, but must be such as to enable the cylinder and material to pass the tests described in paragraphs 11, 12, 13, 14, 15 and 16.

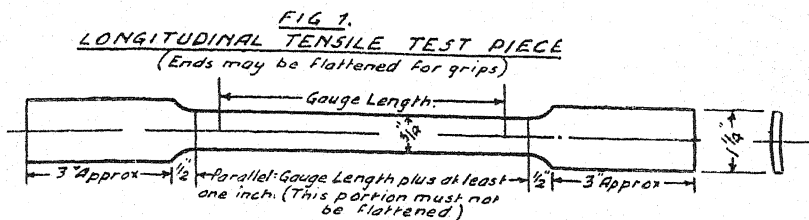
*Oil and Grease.*

10. All traces of oil or grease and all particles of grit, filings or other matter which have collected inside the cylinder in course of manufacture, heat treatment or testing shall be removed completely.

*Tensile Test.*

11. Tensile tests shall be made on the material of one finished cylinder in every batch constructed or when the number in any batch exceeds 100, on the material of at least one finished cylinder in every 100.

The tests shall be made on a strip, cut longitudinally from the finished cylinder of the form shown in Fig. 1.



In preparing the test piece, only the edges shall be machined; the face and back of the test piece shall each represent the surface of the cylinder as manufactured.

The elongation shall be measured on a gauge length which is equal to :—

$$L \text{ (in inches)} = 15\sqrt{\text{area of cross section of test piece.}}$$

$$= 13\sqrt{T}$$

where T = measured average thickness of specimen in inches.

*Note.*—This gauge length has a value of 6.9 inches for a cylinder of 8 inches external diameter and having the designed thickness (0.28 inch) as given by the formula in paragraph 7.

The result of the tensile test shall conform to the following conditions :—

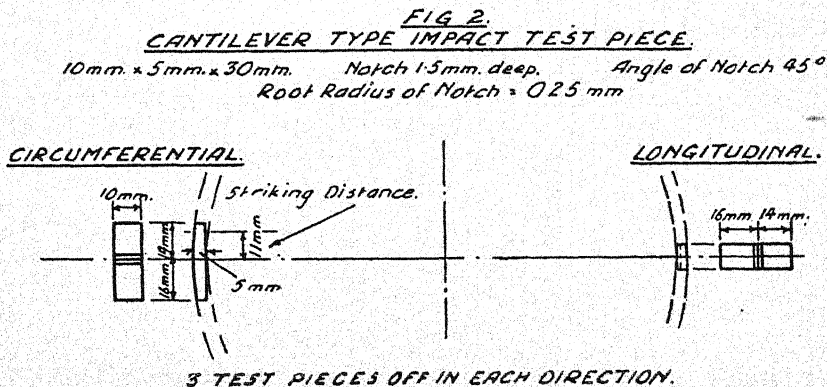
Yield Stress : Not less than 45 tons per square inch.

Ultimate Tensile Stress : Not less than 55 tons per square inch.

Elongation on specified gauge length : Not less than 7 per cent.

#### *Notched Bar Impact Test.*

12. Notched bar impact test pieces shall be cut from the same cylinder as that used for the tensile test (paragraph 11). The test shall only be made on the material of cylinders which are not less than 8 inches in diameter. Six test pieces shall be cut—three in a longitudinal and three in a circumferential direction—and machined to the dimensions shown in Fig. 2.



The minimum energy required for fracture shall be not less than 4.5 ft. lbs. for the circumferential test pieces, and not less than 10 ft. lbs. for the longitudinal test pieces.

*Bend Test.*

13. Cold bend tests shall be made on six strips cut from the same cylinder as that used for the tensile test (paragraph 11) and the impact test (paragraph 12). Three strips shall be cut in the longitudinal direction and three in the circumferential direction. Each strip shall be one inch in width and machined on the edges only. Each strip shall be bent cold through 180° round a radius tool of which the radius shall not exceed four times the thickness of the test specimen.

The material shall be deemed to have passed the test if no cracks appear.

*Hydraulic Stretch Test.*

14. Each completed cylinder shall be subjected to a hydraulic stretch test, preferably by the "water-jacket" \* method. The proof pressure applied internally in this test shall be 4,500 lbs. per square inch. Except in a case where under the hydraulic stretch test, the test pressure has not been reached owing to a fault of the instrument, and the inspecting authority approved by the Secretary of State under paragraph (ii) of Regulation 1, is satisfied that in the process no permanent set has been taken up by the cylinder, no pressure greater than the working pressure shall have been applied to the cylinder before the test. The cylinder shall be deemed to have passed the test if the permanent stretch is not greater than 5 per cent. of the total stretch under the proof pressure. Should the permanent stretch exceed the above percentage of the total stretch under the proof pressure, the cylinder may be re-heat treated in accordance with paragraph 9, and if it then passes the test it may be retained in service.

*Hydraulic Test to Destruction.*

15. One finished cylinder in every 200 shall be subjected to a hydraulic test to destruction † or to a pressure exceeding 7,800 lbs. per square inch. The bursting pressure shall not be less than 7,800 lbs. per square inch. The cylinder must in any case be destroyed.

*Flattening Test.*

16. One finished cylinder in every batch or when the number in any batch exceeds 100, one finished cylinder in every 100, shall be subjected to a flattening test as follows :—

The middle part of the empty cylinder shall be placed between two compression blocks having flat faces  $2\frac{3}{4}$  inches wide with corners rounded to a  $\frac{1}{4}$  inch radius, and pressure applied until cracks appear at the folded surface of the cylinder between the compression blocks.

The distance between the faces of the blocks in contact with the cylinder when cracks appear, shall not be more than 12 times the wall thickness of the cylinder.

If the cylinders are of such a length that from the cylinder used for the tensile and impact tests (paragraphs 11 and 12), there can be obtained, in addition to the tensile and impact test pieces, a parallel portion 4 diameters long, this parallel portion may be used for the flattening test.

*Re-heat Treatment.*

17. If, for any reason, the re-heat treatment of any cylinder is considered desirable, the treatment specified in paragraph 9 shall be applied. After

\* The "water-jacket" method is that in which the cylinder is enclosed in a vessel filled with water and which is fitted with a gauge glass projecting from its upper cover. The changes in volume of the cylinder on applying and after removal of the internal hydraulic pressure are measured by the changes in level of the water in the gauge glass.

An alternative method is the "non-jacket" method in which the cylinder is not enclosed. The changes in volume are determined (subject to certain corrections) by the movement of the water level in a gauge glass from which the water is drawn by the pump in applying the internal hydraulic pressure. Both methods are fully described and their merits discussed in the Fourth Report of the Gas Cylinders Committee, D.S.I.R. 1929.

† The test should be carried out under precautions.

any such re-heat treatment the cylinder shall be thoroughly examined and subjected to the hydraulic stretch test specified in paragraph 14.

#### SPECIFICATION B

##### *Chemical Composition.*

18. The steel used in the manufacture of the cylinders shall on analysis give the following results :—

Carbon ...	...	...	...	Not to exceed 0.4 per cent.
Sulphur ...	...	...	...	Not to exceed 0.04 per cent.
Phosphorus ...	...	...	...	Not to exceed 0.04 per cent.
Silicon ...	...	...	...	Not to exceed 0.3 per cent.
Manganese ...	...	...	...	1.3 per cent. to 1.7 per cent.

##### *Thickness of Cylinder Walls.*

19. The thickness of the cylinder wall shall be not less than the value of  $t$  (in inches), given by the following formula :—

$$t = \frac{pD}{2f+p} = 0.03D.$$

where  $p$  = the maximum working pressure of 1,800 lbs. per square inch.

$f$  = the maximum working stress of 29,120 lbs. per square inch.

$D$  = external diameter in inches.

##### *Examination of Cylinder before Closing-in.*

20. Each cylinder shall be examined before the closing-in operations for maximum and minimum thickness and for external and internal surface defects. The tolerance on wall thickness shall be +25 per cent.—0.

##### *Heat Treatment.*

21. Each cylinder after manufacture shall be raised to a temperature above the critical temperature of the steel and between the limits 825° C.  $\pm$  25° C. It shall remain within the furnace only for a time sufficient to ensure that all parts of the cylinder are at the same temperature. Before the temperature falls appreciably the cylinder shall be removed and allowed to cool in still air in such a position that it is not subjected to draughts.

##### *Oil and Grease.*

22. All traces of oil or grease and all particles of grit, filings, or other matter which have collected inside the cylinder in course of manufacture, heat treatment or testing shall be removed completely.

##### *Tensile Test.*

23. Tensile tests shall be made on the material of one finished cylinder in every batch constructed or, when the number in any batch exceeds 100, on the material of at least one finished cylinder in every 100.

The tests shall be made on a strip, cut longitudinally from the finished cylinder, of the form shown in Fig. 1.

In preparing the test piece, only the edges shall be machined; the face and back of the test piece shall each represent the surface of the cylinder as manufactured.

The elongation shall be measured on a gauge length which is equal to :—

$$L \text{ (inches)} = 15\sqrt{\text{area of cross section of test piece}} = 13\sqrt{T}$$

where  $T$  = measured average thickness of specimen in inches.

*Note.*—This gauge length has a value 6.4 inches for a cylinder of 8 inches external diameter and having the designed thickness (0.24 inch) as given by the formula in paragraph 19.

The results of the tensile test shall conform to the following conditions :—

Yield Stress : Not less than 26 tons per square inch.

Ultimate Tensile Stress : Not less than 42 tons per square inch, and not more than 48 tons per square inch.

Elongation of specified gauge length : Not less than 15 per cent.

*Notched Bar Impact Test.*

24. Notched bar impact test pieces shall be cut from the same cylinder as that used for the tensile test (paragraph 23). The test shall only be made on the material of cylinders which are not less than 8 inches in diameter.

Six test pieces shall be cut—three in a longitudinal and three in a circumferential direction—and machined to the dimensions shown in Fig. 2.

The minimum energy required for fracture shall be not less than 5 ft. lbs. for the circumferential test pieces, and not less than 10 ft. lbs. for the longitudinal test pieces.

*Bend Test.*

25. Cold bend test shall be made on four strips cut from the same cylinder as that used for the tensile test (paragraph 23) and the impact test (paragraph 24). A ring one inch in width shall be cut from the cylinder and be divided into four strips of equal length. Each strip shall be machined on the edges only. Each strip shall remain uncracked when bent inwards round a former of diameter equal to three times the thickness of the strip until the interior edges are at a distance apart not greater than the diameter of the former.

*Hydraulic Stretch Test.*

26. Each completed cylinder shall be subjected to a hydraulic stretch test, preferably by the "water-jacket" \* method. The proof pressure applied internally in this test shall be  $1\frac{2}{3}$  times the designed working pressure of the cylinder. Except in a case where under the hydraulic stretch test the test pressure has not been reached owing to a fault of the instrument and the inspecting authority approved by the Secretary of State under paragraph (ii) of Regulation 1, is satisfied that in the process no permanent set has been taken up by the cylinder, no pressure greater than the working pressure shall have been applied to the cylinder before the test. The cylinder shall be deemed to have passed the test if the permanent stretch is not greater than 5 per cent. of the total stretch under the proof pressure. Should the permanent stretch exceed 5 per cent. of the total stretch under the proof pressure, the cylinder may be re-heat treated in accordance with the method described in paragraph 21 and if it then passes the test it may be retained in service.

*Re-heat Treatment.*

27. If, for any reason, the re-heat treatment of any cylinder is considered desirable, the treatment specified in paragraph 21 shall be applied. After any such re-heat treatment the cylinder shall be thoroughly examined and subjected to the hydraulic stretch test specified in paragraph 26. [1152]

### THIRD SCHEDULE

#### SPECIFICATION FOR BRASS OR BRONZE CYLINDER VALVES AND FITTINGS

*Manufacture of Valves and Fittings.*

1. The stamping or pressing from which each valve or fitting is manufactured shall be made from bars produced by (a) extrusion, (b) rolling, (c) forging, (d) extrusion and drawing, or (e) rolling and drawing.

*Heat Treatment.*

2. Each stamping or pressing shall be heat treated so as to produce an equiaxed microstructure in the material.

*Freedom from Defects.*

3. All stampings or pressings and the bars from which they are made shall be free from cracks, laminations, hard spots, segregated materials and variations in composition.

\* See footnote, page 418.

*Tensile Test.*

4. Tensile tests shall be made on samples of stampings or pressings taken at random from any consignment. The result of the tensile test shall conform to the following conditions :—

Yield Stress : Not less than 15 tons per square inch.

Ultimate Tensile Stress : Not less than 30 tons per square inch.

Elongation on 2 inch gauge length : Not less than 25 per cent.

*Note.*—When the gauge length is less than 2 inches the required elongation shall be proportionately reduced.

The fractured test piece shall be free from piping and other defects described in paragraph 3. [1153]

## LIVESTOCK (SALES) ORDER, 1940

*S. R. & O., 1940, No. 40*

*January 13, 1940*

Whereas it appears to the Minister of Food (hereinafter called “the Minister”) to be necessary for maintaining supplies and services essential to the life of the community and expedient that this Order should be made :

Now, therefore, in pursuance of the powers conferred upon him by Regulation 55 of the Defence Regulations, 1939, and of all other powers him enabling the Minister hereby orders as follows :—

1. In this Order :

“Beasts” means bulls, steers, cows, cow-heifers and heifers.

“Bobbies and boners” means calves, which, in the opinion of the Certifying Authority, are fit only for use for manufacturing purposes.

“Calf” means a bovine animal weighing less than 6½ cwt. which has no permanent incisor teeth.

“Certifying Authority” means in respect of any collecting centre the authority appointed by or under the authority of the Minister to grade and classify and to estimate the dressed carcase weight of livestock in such collecting centre.

“Collecting Centre” means a livestock market or other place authorised by the Minister for the collection and sale for slaughter of livestock.

“Cow” means any female bovine animal which has calved and which is not a cow-heifer.

“Cow-heifer” means any female bovine animal which has calved but which has not grown more than 6 permanent incisor teeth and still retains at least one temporary incisor tooth (calf tooth).

“Dressed carcase weight” means the weight of the carcase of any animal as estimated by the certifying authority in accordance with the provisions of the First Schedule to this Order.

“Government Buyer” means in respect of any Collecting Centre the person authorised by the Minister to buy livestock in such Collecting Centre on behalf of the Minister.

“Killing-out percentage” means the percentage which the dressed carcase weight of the animal bears to the actual live weight less 28 lb. of the animal.

“Livestock” means beasts, calves and sheep (including rams, ewes and lambs). [1154]

2. Except under and in accordance with the terms of a licence granted by or on behalf of the Minister no person shall sell or buy for slaughter for human consumption any livestock unless :—

- (a) such livestock is at the time of sale in a Collecting Centre ; and
- (b) such livestock is sold to a Government buyer ; and
- (c) the Certifying Authority has in accordance with the provisions of the First Schedule to this Order determined that such livestock is fit for slaughter for human consumption and determined the class, grade and killing-out percentage or, as the case may be, the class, description and dressed carcase weight of such livestock. [1155]

3. The Minister may as respects any Collecting Centre from time to time determine the area from which livestock may be collected for sale in that Collecting Centre for slaughter and except under the authority of the Minister no person shall thereafter sell in that Collecting Centre livestock for slaughter except livestock sent from the area so determined by the Minister. [1156]

4. Any person sending livestock to a Collecting Centre for sale for slaughter who is not the owner of such livestock shall before the sale of such livestock furnish the Government buyer at that Collecting Centre with a statement in writing giving the name and address of the owner of such livestock and the person so named as owner shall for the purposes of this Order be deemed to be the person entitled to sell that stock and to receive the purchase money paid in respect thereof. [1157]

5. No person shall in furnishing any information in connection with the sale or purchase in a Collecting Centre of livestock make any statement which such person knows to be false in any material particular or recklessly make any statement which is false in a material particular. [1158]

6. All persons concerned shall comply with any directions in connection with the sale or purchase for slaughter of any livestock in a Collecting Centre given by the Government buyer or other person authorised in that behalf by the Minister. [1159]

7. Nothing in this Order shall in any way affect the operation of any of the provisions of the Diseases of Animals Acts, 1894 to 1937, or of any Order made thereunder. [1160]

8. Infringements of this Order are offences against the Defence Regulations, 1939. [1161]

9. This Order shall not apply to Northern Ireland. [1162]

10. This Order shall come into force on the 15th day of January, 1940, and may be cited as the Livestock (Sales) Order, 1940. [1163]

\* \* \* \* \*

## THE FIRST SCHEDULE

PROVISIONS FOR CERTIFYING, CLASSIFYING, GRADING AND ESTIMATING THE KILLING-OUT PERCENTAGE AND DRESSED CARCASE WEIGHT OF LIVESTOCK

1. The Certifying Authority may in respect of any livestock in a Collecting Centre determine whether such livestock is fit for slaughter for human consumption.

2. Where the Certifying Authority has determined any livestock to be fit for slaughter for human consumption the Certifying Authority shall

(a) In the case of any beast

- (i) determine the class of such beast by reference to one or other of the classes mentioned in Part I of the Second Schedule to this Order.
- (ii) estimate the killing-out percentage and grade of such beast by reference to one or other of the percentages and grade specified in Part I of the Second Schedule to this Order.
- (iii) ensure that the live weight of the beast is ascertained with accuracy.

(b) In the case of any calf, sheep or lamb

- (i) determine the class and description of such calf, sheep or lamb by reference to one or other of the classes specified in Parts II and III of the Second Schedule to this Order and
- (ii) estimate the dressed carcase weight of such calf (not being a bobby or boner) sheep or lamb.

3.—(a) For the purpose of estimating the dressed carcase weight of any beast or calf the following offals shall be deemed to have been removed from the carcase.

1. Hide.

2. Head and tongue (head removed at junction of skull and spinal column leaving the entire spinal column in the carcase).

3. Feet (fore-feet removed at knee-joints, hind-feet at hock-joints).

4. Guts and tripes with the accompanying glands :—

- (i) Liver.
- (ii) Spleen.
- (iii) Pancreas.

5. Caul and gut fat.

6. Heart, including " heart bread " or thyme gland.

7. Lights (lungs, trachea and larynx).

8. Thick skirt (pillar of diaphragm).

9. Tail.

10. Genito-urinary organs (excluding kidneys).

11. Large blood vessels of abdomen and thorax.

(b) For the purpose of estimating the dressed carcase weight of any sheep or lamb the following offals shall be deemed to have been removed from the carcase.

(a) Skin.

(b) Head and tongue (head removed at junction of skull and spinal column leaving the entire spinal column in the carcase).

(c) Guts.

(d) Gut fat.

(e) Liver, melt, heart and lungs.

(f) Genito-urinary organs (excluding kidneys).

(g) Feet (fore-feet removed at knee-joints, hind feet at hock-joints).

4. For the purpose of grading any male animal, where, in the opinion of the Certifying Authority, by reason of late or ineffective castration the

animal displays physical characteristics of a bull or ram as the case may be, the Certifying Authority may classify the animal as a bull or ram accordingly.

5. The estimate or determination as the case may be of the Certifying Authority as to any matter which under the provisions of this Order the Certifying Authority is authorised or required to certify, estimate or determine shall be final and conclusive. [1164]

## THE SECOND SCHEDULE

### PART I.—BEASTS

Class.	Grade.	Estimated Killing out Percentage.
1. Steers, Heifer and Cow-heifers.	Special	Not less than 60%
	A +	Not less than 58% and less than 60%
	A	" " " 57% " " " 58%
	A —	" " " 56% " " " 57%
	B +	Not less than 55% and less than 56%
	B	" " " 54% " " " 55%
	B —	" " " 53% " " " 54%
	C +	Not less than 52% and less than 53%
	C	" " " 51% " " " 52%
	C —	" " " 50% " " " 51%
2. Cows ... ..	D	Less than 50%
	C A +	Not less than 55%
	C A	" " " 54% and less than 55%
	C A —	" " " 53% " " " 54%
	C B +	Not less than 52% and less than 53%
	C B	" " " 51% " " " 52%
	C B —	" " " 50% " " " 51%
	C C +	Not less than 49% and less than 50%
	C C	" " " 48% " " " 49%
	C C —	" " " 47% " " " 48%
3. Bulls ... ..	D	Less than 47%
	B A +	Not less than 58%
	B A	" " " 57% and less than 58%
	B A —	" " " 56% " " " 57%
	B B +	Not less than 55% and less than 56%
	B B	" " " 54% " " " 55%
	B B —	" " " 53% " " " 54%
	B C +	Not less than 52% and less than 53%
	B C	" " " 51% " " " 52%
	B C —	" " " 50% " " " 51%
	B D	Less than 50%

## PART II.—CALVES

Class.	Description.
Veal Calves ... ..	First Quality. Second „ Third „
Bobbies and Boners ... ..	Large. Medium. Small.

## PART III.—SHEEP AND LAMBS

Class.	Description.
1. Sheep ... ..	(a) Fit for the retail meat trade. (b) Fit only for manufacturing purposes.
2. Lambs born in 1939 (including “ram lambs” not possessing male characteristics which will, in the opinion of the Certifying Authority, depreciate the value of the carcass).	
3. Sucking lambs.	
4. Ewes ... ..	(a) Ewes of an estimated dressed carcass weight not exceeding 64 lbs. (b) Ewes of an estimated dressed carcass weight exceeding 64 lbs. (c) Ewes fit only for manufacturing purposes.
5. Rams ... ..	(a) Rams fit for the retail meat trade. (b) Rams fit only for manufacturing purposes. [1165]

### LIVESTOCK (RESTRICTION ON SLAUGHTERING) ORDER, 1940

*S. R. & O., 1940, No. 41*

*January 13, 1940*

Whereas it appears to the Minister of Food (hereinafter called “the Minister”) to be necessary for maintaining supplies and services essential to the life of the community and expedient that this Order should be made :

Now, therefore, in pursuance of the powers conferred upon him by

Regulation 55 of the Defence Regulations, 1939, and of all other powers him enabling the Minister of Food hereby orders as follows :—

1. In this Order—

“ Livestock ” means steers, bulls, cows, cow-heifers, heifers, calves, sheep (including rams, ewes and lambs) and pigs.

“ Area Meat Agent ” means in relation to any area, the person appointed by the Minister as Area Meat Agent for that area.

[1166]

2. Except under the terms and conditions of a licence granted by or under the authority of the Minister, no person shall slaughter or cause to be slaughtered for human consumption any livestock. [1167]

3. The restriction on the slaughter of livestock imposed by Article 2 hereof shall not apply to—

(i) Slaughter of an animal under the provisions of the Diseases of Animals Acts, 1894 to 1937 ;

(ii) Slaughter of an animal where the slaughter is immediately necessary or desirable on account of accidental injury to the animal or its illness : provided that, in any such case notice of the slaughter shall be given within 48 hours to the Area Meat Agent for the area in which the slaughter took place.

[1168]

4. Any person authorised by the Minister may at any time enter and inspect any slaughterhouse and examine any animals or carcases, hides or skins therein, and may require the production of and inspect any documents relating to such animals carcases, hides or skins. [1169]

5. Infringements of this Order are offences against the Defence Regulations, 1939. [1170]

6. This Order shall not apply to Northern Ireland. [1171]

7. This Order shall come into operation on the 15th day of January, 1940, and may be cited as the Livestock (Restriction on Slaughtering) Order, 1940. [1172]

\* \* \* \* \*

## LIVESTOCK (RESTRICTION ON SLAUGHTERING) (NO. 2) ORDER, 1940

*S. R. & O., 1940, No. 1856*

*October 19, 1940*

In exercise of the powers conferred upon him by Regulation 55 of the Defence (General) Regulations, 1939, and of all other powers him enabling, the Minister of Food (hereinafter referred to as “ the Minister ”) hereby makes the following Order :—

1. In this Order :—

“ Livestock ” means steers, bulls, cows, cow-heifers, heifers, calves, sheep (including rams, ewes and lambs) and pigs.

“District Chairman of Auctioneers” means the person appointed by the Minister to act as District Chairman of Auctioneers at a Collecting Centre.

“Collecting Centre” has the same meaning as in the Livestock (Sales) Order, 1940.

“Local Authority” has the meaning assigned to it by Section 64 of the Food and Drugs Act, 1938.

“Meat” includes edible offals.

“Knacker’s Yard” has the meaning assigned to it by Section 100 of the Food and Drugs Act, 1938. [1173]

2.—(1) Except under the terms and conditions of a licence granted by or under the authority of the Minister, no person shall slaughter or cause to be slaughtered for human consumption any livestock.

(2) In any proceedings in respect of any contravention of this Article the slaughter of any livestock in question shall be deemed to have been a slaughter for human consumption unless and until the contrary shall have been proved. [1174]

3. The restriction on the slaughter of livestock imposed by Article 2 hereof shall not apply to—

- (i) slaughter of an animal under the provisions of the Diseases of Animals Acts, 1894 to 1937 ;
- (ii) slaughter of an animal where the slaughter is immediately necessary or desirable on account of accidental injury to the animal or its illness. [1175]

4.—(1) Where an animal has been slaughtered pursuant to the provisions of Article 3 (ii) hereof, notice of such slaughter shall be given within 48 hours by or on behalf of the owner of the animal to the District Chairman of Auctioneers at the Collecting Centre nearest to the place of slaughter, and no person shall sell or otherwise dispose of the carcase of that animal or any part thereof except under and in accordance with directions in relation thereto given by the District Chairman of Auctioneers aforesaid or other person authorised by the Minister.

(2) Nothing in this Article shall affect any obligation imposed upon the owner or slaughterer of any animal by any Order or Regulation relating to the inspection of meat or to public health. [1176]

5. Except under and in accordance with the terms of a licence granted by or on behalf of the Minister, no person shall sell or otherwise dispose of or offer or expose for sale for human consumption any meat derived from livestock slaughtered in Great Britain, unless such meat has prior to such sale, or disposal, offer or exposure for sale been purchased from the Minister or from a person selling on his behalf. [1177]

- 6.—(i) On and after the 1st December, 1940, all meat derived
- (a) from horses slaughtered in Great Britain not being meat which is fit for human consumption, and
  - (b) from livestock slaughtered in Great Britain other than livestock slaughtered for human consumption, and
  - (c) from horses or livestock which have died as the result of illness or accidental injury, the meat derived from which is not fit for human consumption,

shall, as soon as practicable after slaughter or death and before leaving the place of slaughter or death, as the case may be, be treated by or on behalf of the owner thereof in the prescribed manner, and no person shall sell or otherwise dispose of or offer or expose for sale any such meat unless it shall have been so treated :

Provided that, where an animal has died as a result of illness or has been slaughtered on account of accidental injury or illness, and the meat derived therefrom is unfit for human consumption, it shall be a sufficient compliance with the provisions of this Article if such meat is treated in the prescribed manner in a knacker's yard within 24 hours of slaughter.

(ii) "The prescribed manner" means the manner following that is to say: the meat (after opening quarters and all large joints by incision) shall be impregnated with one or other of the following colouring agents in solution, namely, Naphthalene Green, G.S., or Acid Green, G. (such solution to be at the strength of not less than half an ounce of colouring agent to one gallon of water or 2 level teaspoonfuls to 1 gallon), or with such other colouring agent in solution as shall have been approved by the Minister, and the meat shall be treated either by immersing it in the solution or by spraying the meat therewith.

(iii) An authorised officer of a Local Authority or of the Ministry of Food may at all reasonable times examine any meat which is subject to treatment pursuant to this Article or which has been or is being treated as aforesaid, and for that purpose may at all reasonable times enter a knacker's yard, or other premises.

(iv) Where the holder of a knacker's licence granted by a Local Authority under the provisions of the Food and Drugs Act, 1938, has been convicted of an offence in respect of any infringement of this Order, the Court may revoke such licence or suspend it for such period and on such terms as it thinks fit.

(v) This Article shall take effect subject to the provisions of the Diseases of Animals Act, 1894 to 1937, and of any Orders or Regulations made thereunder. [1178]

7. Any person authorised by the Minister may at any time enter and inspect any slaughterhouse or knacker's yard and examine any animals or carcasses, hides, or skins therein, and may require the production of and inspect any documents relating to such animals, carcasses, hides or skins. [1179]

8. Infringements of this Order are offences against the Defence (General) Regulations, 1939. [1180]

9. This Order shall not apply to Northern Ireland. [1181]

10. The provisions of this Order are subject to any directions which may at any time be given by or on behalf of the Minister. [1182]

11. The Livestock (Restriction on Slaughtering) Order, 1940, is hereby revoked, but without prejudice to any proceedings in respect of any contravention thereof. [1183]

12. This Order may be cited as the Livestock (Restriction on Slaughtering) (No. 2) Order, 1940. [1184]

**GENERAL LICENCE UNDER THE LIVESTOCK (SALES)  
ORDER, 1940, AND THE LIVESTOCK (RESTRICTION  
ON SLAUGHTERING) ORDER, 1940**

*S. R. & O., 1940, No. 1811*

*October 9, 1940*

1. Pursuant to the Livestock (Sales) Order, 1940, and the Livestock (Restriction on Slaughtering) Order, 1940, the Minister of Food hereby authorises any person resident in the Shetland Islands to sell or buy for slaughter and to slaughter any sheep for consumption in the household in the Shetland Islands of the buyer of such sheep free from the restrictions imposed by the said Orders. [1185]

2. This licence may be revoked at any time, but subject to any such revocation shall continue in force until 31st December, 1940. [1186]

\* \* \* \* \*

**GENERAL LICENCE UNDER THE LIVESTOCK (SALES)  
ORDER, 1940, AND THE LIVESTOCK (RESTRICTION  
ON SLAUGHTERING) (NO. 2) ORDER, 1940**

*S. R. & O., 1940, No. 2145*

*December 18, 1940*

1. Pursuant to the Livestock (Sales) Order, 1940, and the Livestock (Restriction on Slaughtering) (No. 2) Order, 1940, the Minister of Food hereby authorises any person resident in the Shetland Islands to sell or buy for slaughter and to slaughter any sheep for consumption in the household in the Shetland Islands of the buyer of such sheep free from the restrictions imposed by the said Orders. [1187]

2. The General Licence dated October 9, 1940, made by the Minister of Food under the Livestock (Sales) Order, 1940, and the Livestock (Restriction on Slaughtering) Order, 1940, is hereby revoked. [1188]

3. This licence may be revoked at any time, but subject to any such revocation, shall continue in force until 31st December, 1941. [1189]

\* \* \* \* \*

**MEMORANDUM: CONTROL OF SLAUGHTERING**

1. Attention is called to the Livestock (Restriction on Slaughtering) Order, 1940, S. R. & O., 1940, No. 41, made by the Minister of Food which came into operation on January 15th, 1940. This Order provides that, with certain exceptions, no person shall for human consumption slaughter or cause to be slaughtered any livestock, as defined in the Order, except with the authority of the Minister of Food.

The Minister of Food has, in connection with this Order, arranged that slaughter for sale shall not be carried out except at—

(a) certain slaughterhouses provided by local authorities. In these slaughtering will be carried out on behalf of the Minister of Food, under agreements made by him in each case with the Local Authority ;

(b) certain other slaughterhouses, of which the Minister of Food has taken possession under the Defence (General) Regulations, 1939. [1190]

2. *Inspection, etc., by Local Authorities.*—The following is a copy of a question put by Mr. Markham, M.P., in the House of Commons on the 13th December, and of the reply :—

MR. MARKHAM.

To ask the Chancellor of the Duchy of Lancaster in view of the fact that the Ministry, by proposing to purchase fatstock and slaughter them for food, will be the owners of meat intended for human consumption and responsible under the Public Health Acts and the Food and Drugs Acts 1938 that such food is fit for human consumption, what steps he is taking to ensure that animals sent for slaughter are submitted to Ante-Mortem Inspection to control disease, and that meat prepared for sale for human consumption is efficiently inspected to safeguard public health ; and what steps he is taking to conserve in the National interest carcass by-products and meat judged unfit for human consumption.

MR. W. S. MORRISON.

As regards Ante-Mortem Inspection to control disease of animals sent for slaughter, the intention is to utilise the existing inspection services. As regards the inspection of meat that will be prepared for sale at the Wholesale Meat Distribution Depots provided for under the Control Scheme, I am in communication with my Rt. Hon. Friend the Minister of Health, with a view to the services of the Meat Inspectorate of the Local Authorities continuing to be available for this purpose. Steps are also being taken to ensure the prompt disposal of all carcass by-products (other than those sold by retail butchers) and meat judged unfit for human consumption to the various trades at present handling such products ; the latter will be disposed of under guarantees against the meat being used for human consumption. [1191]

3. The animals to be slaughtered under the scheme set out above, and the meat and offals until sold, are the property of the Crown. Moreover, the greater number of the slaughterhouses to be used (*i.e.* those lettered (b) above) are occupied by the Crown. This affects the normal arrangements for meat inspection in some degree. Details are still under consideration, but it is desired at this stage to emphasise that (as stated in the answer to the question in the House of Commons) the Minister of Food desires to have the benefit of the meat inspection services already provided by local authorities under the ordinary law. The Minister of Health accordingly hopes that Local Authorities, in whose areas selected slaughterhouses or depots are situated, will co-operate with the Ministry of Food in continuing inspection, both at

the slaughterhouses and at the wholesale meat distribution depots which are provided in connection with the scheme. [1192]

4. *Licences under Section 57 of the Food and Drugs Act, 1938.*—Where the Minister of Food on behalf of the Crown is occupier of a private slaughterhouse under these arrangements, he is advised that no licence under section 57 of the Food and Drugs Act, 1938, is required; but, in pursuance of his desire that normal meat inspection shall continue, the persons in charge of his slaughterhouses have been instructed to give the same facilities for entry by the officers of local authorities as would exist in ordinary private slaughterhouses. [1193]

5. *Notification of Times of Slaughter, etc.*—Every effort will be made by those responsible for management of the slaughterhouses to ensure compliance with articles 7 to 11 of the Public Health (Meat) Regulations, 1924, with regard to notification of times of slaughter and detention for inspection, but local authorities will understand that difficulty may be experienced at times of exceptional pressure under war conditions. [1194]

6. *Unsound Meat.*—The Minister of Food is advised that the provisions of the Food and Drugs Act, 1938, in relation to the seizure of unsound food are not applicable in relation to meat, etc., in possession of the Crown. If, however, it appears to an authorised officer of a local authority that such meat is unfit for human consumption the facts should be brought as soon as possible to the notice of the Government Slaughterhouse Manager. Special arrangements have been made by the Ministry of Food for the disposal of unsound meat, etc., from slaughterhouses and depots, under guarantee that such meat will not be used for human consumption. [1195]

7. *Prevention of cruelty.*—The Ministers are further advised that the operation of the Slaughter of Animals Act, 1933, apart from the right of entry to premises thereby conferred (as to which see paragraph 3 above) is not affected. [1196]

\*                      \*                      \*                      \*                      \*

## ROAD AMENITIES

*See* HIGHWAYS.

## ROAD TRAFFIC

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## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL . . . AMENDING REGULATIONS . . . 72, 73 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 169*

*February 6, 1940*

\* \* \* \* \*

4. After paragraph (1) of Regulation seventy-two of the principal Regulations the following paragraph shall be inserted :—

“(1A) In any proceedings which, by virtue of subsection (1) of section seventy-seven of the Road Traffic Act, 1930, may be taken in respect of a person not licensed to act as conductor of a public service vehicle having so acted, it shall be a defence

for the defendant to prove that at the material time that person was acting under an authority granted generally or specially for the purposes of this paragraph by or on behalf of the Minister of Transport." [1197]

5. After paragraph (1) of Regulation seventy-three of the principal Regulations the following paragraph shall be inserted :—

"(1A) In any proceedings which, by virtue of subsection (1) or subsection (2) of section twelve of the Act of 1926, may be taken in respect of a person not licensed to act as conductor of a public service vehicle having so acted, it shall be a defence for the defendant to prove that at the material time that person was acting under an authority granted generally or specially for the purposes of this paragraph by or on behalf of the Secretary of State." [1198]

\* \* \* \* \*

## ORDER IN COUNCIL AMENDING REGULATION . . . 72 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1940, No. 1217

*July 10, 1940*

\* \* \* \* \*

11. The following amendments shall be made in Regulation seventy-two of the principal Regulations :—

(a) at the end of paragraph (2) the following provision shall be inserted :—

"Where such an authority as aforesaid is granted in respect of a person who, if it had not been granted would be required to be the holder of a road service licence granted under section seventy-two of the Road Traffic Act, 1930, subsections (1) and (2) of section ninety-three of that Act (which relates to wages and conditions of employment) shall apply in relation to that person as they apply in relation to the holder of such a licence";

(b) at the end of paragraph (4) the following provision shall be inserted :—

"The Minister of Transport may, to such extent and subject to such restrictions as he thinks proper, delegate all or any of his functions under this paragraph to any specified persons or class of persons." [1199]

\* \* \* \* \*

**ORDER IN COUNCIL . . . AMENDING REGULATION  
... 72 OF THE DEFENCE (GENERAL) REGULA-  
TIONS, 1939**

*S. R. & O., 1940, No. 1328*

*July 24, 1940*

\* \* \* \* \*

11.—(1) After paragraph (1A) of Regulation seventy-two of the principal Regulations there shall be inserted as a new paragraph (1B) the following paragraph :—

“(1B) If, on an application in that behalf made to him by or on behalf of a person who is, by virtue of a conviction or order under Part I of the Road Traffic Act, 1930, or under the corresponding provisions of any enactment repealed by that Act, disqualified for holding or obtaining a licence to drive a motor vehicle granted under the said Part I, the Secretary of State considers it expedient in the interests of the defence of the realm or the efficient prosecution of the war or for maintaining supplies and services essential to the life of the community so to do, he may direct the removal of the disqualification as from such date as may be specified in the directions, and, if he so directs, he shall cause particulars of the directions to be endorsed on any such licence as aforesaid previously held by the person by or on behalf of whom the application is made”.

(2) Paragraph (1B) of the said Regulation seventy-two shall be re-numbered as paragraph (1c) of that Regulation. [1200]

\* \* \* \* \*

**ORDER IN COUNCIL AMENDING REGULATION . . .  
72 OF THE DEFENCE (GENERAL) REGULATIONS,  
1939**

*S. R. & O., 1940, No. 1826*

*October 11, 1940*

\* \* \* \* \*

3.—(1) After paragraph (5) of Regulation seventy-two of the principal Regulations, there shall be inserted the following paragraph :—

“(6) The operation of so much of the Road Traffic Acts, 1930 to 1937, as requires provisional driving licences under subsection (3) of section five of the Road Traffic Act, 1930, only to be granted for the purpose of enabling applicants to learn to drive motor vehicles with a view to passing tests is hereby suspended during the continuance in force of this paragraph; and any such licence granted on or after the eighteenth day of October, nineteen hundred and forty, shall be granted to be in force for a period of twelve months, and subject to such conditions, if any, as may be prescribed.”

(2) Paragraph (6) of the said Regulation seventy-two shall be re-numbered as paragraph (7). [1201]

\* \* \* \* \*

**ORDER IN COUNCIL . . . AMENDING REGULATION  
... 73 OF THE DEFENCE (GENERAL) REGULA-  
TIONS, 1939**

*S. R. & O., 1940, No. 1292*

*July 17, 1940*

\* \* \* \*

8. At the end of paragraph (3) of Regulation seventy-three of the principal Regulations the following provision shall be inserted :—

“The Secretary of State may, to such extent and subject to such restrictions as he thinks proper, delegate all or any of his functions under this paragraph to any specified persons or class of persons.” [1202]

\* \* \* \*

**ORDER IN COUNCIL . . . AMENDING REGULATION  
... 73 OF THE DEFENCE (GENERAL) REGULA-  
TIONS, 1939**

*S. R. & O., 1940, No. 1611*

*September 4, 1940*

\* \* \* \*

7. After paragraph (1A) of Regulation seventy-three of the principal Regulations there shall be inserted the following paragraph :—

“(1B) If, on an application in that behalf made to him by or on behalf of a person who is, by virtue of a conviction or order under the Motor Vehicles and Road Traffic Acts (Northern Ireland) 1926 to 1934, disqualified for holding or obtaining a licence to drive a motor vehicle granted under Part I of the Act of 1926, the Ministry of Home Affairs considers it expedient in the interests of the defence of the realm or the efficient prosecution of the war or for maintaining supplies and services essential to the life of the community so to do, the Ministry may direct the removal of the disqualification as from such date as may be specified in the directions, and, if it so directs, it shall cause particulars of the directions to be endorsed on any such licence as aforesaid previously held by the person by or on behalf of whom the application is made.” [1203]

\* \* \* \*

**ORDER IN COUNCIL ADDING REGULATIONS 19A AND  
19B TO THE DEFENCE (GENERAL) REGULATIONS,  
1939**

*S. R. & O., 1940, No. 844*

*May 31, 1940*

\* \* \* \*

19A. “Control of motor vehicles.—(1) A Secretary of State or the Minister of Home Security may by order provide for requiring mechanically propelled road vehicles, or any such class of mechanically propelled road vehicles as may be specified in the order, to be rendered,

when not being driven, incapable of use by unauthorised persons during such hours as may be so specified; and any such order may contain provisions with respect to the method by which vehicles are to be rendered incapable of use as aforesaid.

(2) This Regulation shall, in its application to Northern Ireland, have effect as if the reference to the Minister of Home Security were omitted." [1204]

**19B. "Control of fuel, etc., required for motor vehicles.—**(1) A Secretary of State or the Minister of Home Security may by order provide for regulating the supply and storage of any substances and articles capable of being used as fuel or lubricants for motor vehicles or otherwise in connection with such vehicles, with a view to preventing supplies thereof being available for use in any manner prejudicial to the safety of the realm in the event of hostile attack; and any such order may, in particular, provide for prohibiting the supply and storage of such substances and articles as aforesaid elsewhere than in such places and under such conditions as may be approved by such authorities or persons as may be specified in the order.

(2) Any order made under this Regulation may be made so as to apply either generally or to a particular area, and may provide for any incidental or supplementary matters for which the Secretary of State or the Minister of Home Security thinks it is expedient for the purposes of the order to provide, including, in particular, the entry and inspection of premises to which the order relates and the taking of such steps as may be expedient with a view to securing compliance with the order.

(3) This Regulation shall, in its application to Northern Ireland, have effect as if the references to the Minister of Home Security were omitted." [1205]

\* \* \* \* \*

## ROAD VEHICLES (FIRE BRIGADE TRAILER PUMPS) ORDER, 1939

*S. R. & O., 1939, No. 1558*

*October 27, 1939*

In virtue of his powers under the Defence Regulations, 1939, the Minister of Transport hereby orders as follows :—

1. Notwithstanding anything in Section 18 of the Road Traffic Act, 1930, a heavy motor car or a motor car may draw two trailer pumps used for fire brigade purposes the laden weight of neither of which exceeds 25 cwt. [1906]

2. This Order may be cited as "The Road Vehicles (Fire Brigade Trailer Pumps) Order, 1939". [1207]

\* \* \* \* \*

## MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) ORDER, 1940

*S. R. & O., 1940, No. 57*

*January 3, 1940*

Whereas by Section 3 of the Road Traffic Act, 1930, the Minister of Transport (hereinafter called "the Minister") may by Order authorise, subject to such restrictions and conditions as may be specified in the Order, the use on roads of special motor vehicles or trailers or special types of motor vehicles or trailers which are constructed either for special purposes or for tests or trials.

Now, therefore, the Minister in exercise of the powers so conferred upon him and of all other powers thereto him enabling hereby orders as follows :—

1. This Order may be cited as "The Motor Vehicles (Authorisation of Special Types) Order, 1940." [1208]

2. The Minister authorises the use on roads, for the purpose of tests or trials, of the vehicle of which the index mark and registration number assigned by the Edinburgh Burgh Council in accordance with the provisions of Regulation 15 of the Road Vehicles (Registration and Licensing) Regulations, 1924, are FS 248, notwithstanding that this vehicle does not comply with the requirements of Regulations 6 and 33 of the Motor Vehicles (Construction and Use) Regulations, 1937. [1209]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [1210]

\* \* \* \* \*

## MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) ORDER (NO. 2), 1940

*S. R. & O., 1940, No. 564*

*April 3, 1940*

Whereas by section 3 of the Road Traffic Act, 1930, the Minister of Transport (hereinafter called "The Minister") may by Order authorise, subject to such restrictions and conditions as may be specified in the Order, the use on roads of special motor vehicles or trailers or special types of motor vehicles or trailers which are constructed either for special purposes or for tests or trials.

Now, therefore, the Minister in exercise of the powers so conferred upon him and of all other powers thereto him enabling hereby orders as follows :—

1. This Order may be cited as "The Motor Vehicles (Authorisation of Special Types) Order (No. 2), 1940". [1211]

2. The Minister authorises the use on roads, for the purpose of tests or trials, of the vehicle of which the index mark and registration number assigned by the Glasgow Burgh Council in accordance with

the provisions of Regulation 15 of the Road Vehicles (Registration and Licensing) Regulations, 1924, are BUS 125, notwithstanding that this vehicle does not comply with the requirements of Regulations 6 and 33 of the Motor Vehicles (Construction and Use) Regulations, 1937. [1212]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [1213]

\* \* \* \* \*

## MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) ORDER (NO. 3), 1940

*S. R. & O., 1940, No. 625*

*April 12, 1940*

Whereas by section 3 of the Road Traffic Act, 1930, the Minister of Transport (hereinafter called "The Minister") may by Order authorise, subject to such restrictions and conditions as may be specified in the Order, the use on roads of special motor vehicles or trailers or special types of motor vehicles or trailers which are constructed either for special purposes or for tests or trials.

Now, therefore, the Minister in exercise of the powers so conferred upon him and of all other powers thereto him enabling hereby orders as follows :—

1. This Order may be cited as "The Motor Vehicles (Authorisation of Special Types) Order (No. 3) 1940". [1214]

2. The Minister authorises the use on roads, for the purpose of tests or trials, of the vehicle of which the index mark and registration number assigned by the Swansea County Borough Council in accordance with the provisions of Regulation 15 of the Road Vehicles (Registration and Licensing) Regulations, 1924, are WN 9475, notwithstanding that this vehicle does not comply with the requirements of Regulations 6 and 33 of the Motor Vehicles (Construction and Use) Regulations, 1937. [1215]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [1216]

\* \* \* \* \*

## MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) ORDER (NO. 4), 1940

*S. R. & O., 1940, No. 2024*

*November 11, 1940*

Whereas by section 3 of the Road Traffic Act, 1930, the Minister of Transport (hereinafter called "The Minister") may by Order authorise, subject to such restrictions and conditions as may be specified in the

Order, the use on roads of special motor vehicles or trailers or special types of motor vehicles or trailers which are constructed either for special purposes or for tests or trials.

Now, therefore, the Minister, in exercise of the powers so conferred upon him and of all other powers thereto him enabling, hereby orders as follows :—

1. This Order may be cited as “ The Motor Vehicles (Authorisation of Special Types) Order (No. 4), 1940 ”. [1217]

2. The Minister authorises the use of roads, for the purpose of tests or trials, of the vehicle of which the index mark and registration number assigned by the Sheffield County Borough Council in accordance with the provisions of Regulation 15 of the Road Vehicles (Registration and Licensing) Regulations, 1924, are WJ 3968, notwithstanding that this vehicle does not comply with the requirements of Regulations 6 and 33 of the Motor Vehicles (Construction and Use) Regulations, 1937. [1218]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [1219]

\* \* \* \* \*

## MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) ORDER (NO. 1) 1937 (AMENDMENT) ORDER, 1940

*S. R. & O., 1940, No. 425*

*March 7, 1940*

Whereas under the powers conferred upon him by section 3 of the Road Traffic Act, 1930, the Minister of Transport on the 11th day of May, 1937, made the Motor Vehicles (Authorisation of Special Types) Order (No. 1) 1937 (hereinafter referred to as “ the Principal Order ”) and that Order has been amended.

And whereas it is expedient that the provisions of the Principal Order should be further modified in manner hereinafter appearing.

Now, therefore, the Minister of Transport, in exercise of the powers so conferred upon him as aforesaid, and of all other powers thereto him enabling, hereby orders as follows :—

1. This Order may be cited as “ The Motor Vehicles (Authorisation of Special Types) Order (No. 1) 1937 (Amendment) Order, 1940 ”. [1220]

2. It shall be a sufficient compliance with the provisions of paragraph 10 of the Principal Order in the case of a vehicle authorised to be used under the provisions of that Order in an emergency in connection with the distribution of plant or equipment acquired by the Central Electricity Board under powers conferred on them by section 42 of the Civil Defence Act, 1939, where it is impracticable before using the vehicle to give the two clear days' notice in the form prescribed or the indemnity, in each case required by the said paragraph to be given before the vehicle is so used, if such notice (suitably amended in any case where it is given after the journey is commenced) be given as soon

as possible, and if both such notice and indemnity be given in any event within 24 hours after such user has commenced. [1221]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [1222]

\* \* \* \* \*

## MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) ORDER (NO. 1) 1937 (AMENDMENT) (NO. 2) ORDER, 1940

*S. R. & O., 1940, No. 901*

*June 6, 1940*

Whereas under the powers conferred upon him by section 3 of the Road Traffic Act, 1930, the Minister of Transport on the 11th day of May, 1937, made the Motor Vehicles (Authorisation of Special Types) Order (No. 1) 1937 (hereinafter referred to as "the Principal Order"), and that Order has been amended.

And whereas it is expedient that the provisions of the Principal Order should be further modified in manner hereinafter appearing.

Now, therefore, the Minister of Transport, in exercise of the powers so conferred upon him as aforesaid, and of all other powers thereto him enabling, hereby orders as follows :—

1. This Order may be cited as "The Motor Vehicles (Authorisation of Special Types) Order (No. 1) 1937 (Amendment) (No. 2) Order, 1940". [1223]

2. It shall be a sufficient compliance with the provisions of paragraph 10 of the Principal Order in the case of a vehicle, the laden weight of which exceeds 12 tons,

- (a) authorised to be used under the provisions of that Order and used on a particular journey in accordance with direct instructions by the Military Authorities in connection with the defence of Great Britain against possible enemy attack, or
- (b) authorised to be used under the provisions of that Order in an emergency in connection with the movement of plant or equipment necessary to secure the due functioning of any public utility undertaking (as defined in the Civil Defence Act, 1939, in the event of hostile attack,

where it is impracticable before using the vehicle to give the two clear days' notice in the form prescribed or the indemnity, in each case required by the said paragraph to be given before the vehicle is so used, if such notice (suitably amended in any case where it is given after the journey is commenced) be given as soon as possible, and if both such notice and indemnity be given in any event within 24 hours after such user has commenced. [1224]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [1225]

\* \* \* \* \*

## EMERGENCY POWERS (DEFENCE) BUILT UP AREAS ORDER, 1940

*S. R. & O., 1940, No. 101*

*January 27, 1940*

In virtue of his powers under the Defence (General) Regulations, 1939, the Minister of Transport hereby orders as follows :—

1. No person shall drive or cause to be driven any vehicle at a speed exceeding 20 miles per hour during the hours of darkness (as defined in the Road Transport Lighting Act, 1927) on any length of road which on the 1st August, 1939, was deemed to be a road in a built up area within the meaning of section 1 of the Road Traffic Act, 1934, or in respect of which a direction given under that section since the 1st August, 1939, that it shall be deemed to be a road in a built up area is in force. [1226]

2. The provisions of this Order shall not apply—

(a) to any vehicle on an occasion when it is being used for fire brigade, ambulance or police purposes if the observance of those provisions would be likely to hinder the use of the vehicle for the purpose for which it is being used on that occasion ;

(b) to any length of road in respect of which a direction that it shall be deemed not to be a road in a built up area, given since 1st August, 1939, under section 1 of the Road Traffic Act, 1934, is in force. [1227]

3. This Order may be cited as The Emergency Powers (Defence) Built Up Areas Order, 1940, and shall come into force on 1st February, 1940. [1228]

\* \* \* \* \*

## ROAD VEHICLES (PART YEAR LICENSING) ORDER, 1940

*S. R. & O., 1940, No. 211*

*February 9, 1940*

Whereas the Minister of Transport in exercise of the powers conferred on him by section 22 of the Finance Act, 1921, and section 26 of the Finance Act, 1933, made provision by the Road Vehicles (Part Year Licensing) Order, 1939, with regard to the taking out of licences under the Finance Act, 1920, in respect of certain mechanically-propelled vehicles for such periods of the year and on payment of duty at such rates as were therein prescribed :

Now, therefore, the Minister of Transport in exercise of the powers conferred on him by section 22 of the Finance Act, 1921, and of all other powers enabling him in that behalf and without prejudice to the further exercise of those powers hereby orders as follows :—

1. A licence may be taken out for the period from 21st day of March, 1940, to 30th day of June, 1940, and the duty payable on such licence

shall be  $27\frac{1}{2}$  per cent. of the full annual rate of duty together with the additional sum hereinafter provided. [1229]

2. A licence may be taken out for the period from 21st day of March, 1940, to 31st day of December, 1940, and the duty payable on such licence shall be an amount equal to three-fourths of the full annual rate of duty together with :—

- (a) a sum equal to five per cent. of that amount, and
- (b) the additional sum hereinafter provided. [1230]

3. The additional sum hereinbefore mentioned shall be—

- (a) in the case of cycles, the sum of 1s. 0d. ;
- (b) in the case of mechanically-propelled vehicles other than cycles—
  - (i) where the full annual rate of duty is less than £30, the sum of 5s. ;
  - (ii) where the full annual rate of duty is £30 or over, the sum of 10s. [1231]

4. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament.

5. This Order may be cited as “The Road Vehicles (Part Year Licensing) Order, 1940”. [1232]

\* \* \* \* \*

## EMERGENCY POWERS (DEFENCE ) STANDING VEHICLES (AMENDMENT) ORDER, 1940

*S. R. & O., 1940, No. 396*

*March 8, 1940*

In virtue of his powers under Regulations 70 and 98 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, the Minister of Transport hereby orders as follows :—

1. The Emergency Powers (Defence) Standing Vehicles Order, 1939, shall have effect as though the following sub-paragraph were added to paragraph 3 thereof :—

“ (5) any vehicle—

- (a) which is used for the purposes of an electricity undertaking, gas undertaking or electric transport undertaking, and for no other purpose ; and
- (b) into which there is built, as part of the vehicle, a telescopic contrivance designed for facilitating the erection, inspection, repair or maintenance of overhead structures or equipment ; and
- (c) which is neither constructed nor adapted for use nor used for the conveyance of any load except such a contrivance and articles used in connection therewith,

if the observation thereof would be likely to hinder the use of the vehicle for the purpose for which it is being used on that occasion.”

[1233]

2. This Order may be cited as "The Emergency Powers (Defence) Standing Vehicles (Amendment) Order, 1940". [1234]

\* \* \* \* \*

## STANDING PASSENGERS ORDER, 1940

*S. R. & O., 1940, No. 594*

*April 16, 1940*

In exercise of the powers conferred upon him by Regulation 56 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, the Minister of Transport hereby orders as follows :—

1. For the purpose of this Order—

“deck” means, in the case of a trolley vehicle having more than one deck, the lower deck ; and

“seating capacity” shall be calculated in accordance with the provisions of Regulation 3 of the Hackney Motor Vehicles (Seating Capacity) Regulations, 1927.

2. Notwithstanding anything in any enactment or in any order, bye-law or regulation made thereunder, a trolley vehicle may carry additional passengers, not exceeding one-third of the number of passengers for which the deck has seating capacity and not exceeding eight in number, if the additional passengers are taken up in circumstances in which undue hardship would be caused to such passengers if they were not carried on the vehicle. [1235]

3. Nothing in this Order shall—

(a) restrict any right to carry additional passengers in trolley vehicles conferred by or under any enactment ; or

(b) permit any additional passengers to be carried in a trolley vehicle running on any part of any route in connexion with the approval of which the Minister of Transport has imposed a condition that no standing passengers shall be carried in any trolley vehicle running on that part of that route.

4. This Order may be cited as “The Standing Passengers Order, 1940”. [1236]

\* \* \* \* \*

## EMERGENCY POWERS (DEFENCE) ROAD VEHICLES AND DRIVERS ORDER, 1940

*S. R. & O., 1940, No. 741*

*May 6, 1940*

In exercise of the powers conferred on him by Regulation 72 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, the Minister of Transport (hereinafter called “the Minister”) hereby orders as follows :—

In this Order, unless the context otherwise requires,

“regulation” means a regulation of the Defence (General) Regulations, 1939.

"Minister" means the Minister of Transport.

"Commissioner" means a person appointed by the Minister to be a Regional Transport Commissioner or Deputy or Assistant Regional Transport Commissioner, and, in relation to the issue to persons residing in the Metropolitan Traffic Area as defined in the Road and Rail Traffic Act, 1933, of permits to act as a driver or conductor of a public service vehicle, the Commissioner of Police of the Metropolis.

"designated officer" means a person appointed by the Minister as a Chief Assistant to a Regional Transport Commissioner, or as a District Transport Officer or as a Traffic Officer.

"public service vehicle", "public service vehicle licence" and "road service licence" have the meanings respectively assigned to them by the Road Traffic Act, 1930.

"carriers' licence" means a licence under Part I of the Road and Rail Traffic Act, 1933.

"identity certificate" means an identity certificate issued for the purposes of regulation 12 of the Goods Vehicles (Licences and Prohibitions) Regulations, 1936.

#### *Requisition of horses, vehicles and equipment.*

1. A Commissioner or a designated officer may

- (a) requisition any horse and any equipment thereof, any vehicle and any equipment thereof and any accessories for the maintenance or repair of vehicles ;
- (b) use or deal with property so requisitioned ;
- (c) direct that no person shall, having in his possession or under his control property which might be requisitioned under this Order, remove or cause or permit to be removed that property from the premises where it is. [1237]

#### *Drivers' and Conductors' Permits*

2.—(1) For the purpose of paragraph (1) of regulation 72 a Commissioner may by a permit in the form specified in Schedule A to this Order authorise (a) any person holding either a driving licence licensing him to drive vehicles included in Group I of the Second Schedule to the Motor Vehicles (Driving Licences) Regulations, 1937, or a National Service Driving Licence issued under the Emergency Powers (Defence) Road Vehicles and Drivers Order, 1939, permitting him to drive motor vehicles of all descriptions, to act as a driver of a heavy goods vehicle within the meaning of section 31 of the Road Traffic Act, 1934, or as a driver of a public service vehicle, or (b) any person to act as a conductor of a public service vehicle.

(2) A permit issued under this paragraph shall, subject to the provisions of paragraph 8 hereof, be valid for one year from the date of issue. [1238]

#### *Legal Proceedings in relation to use of vehicles*

3. In any proceedings which may be taken in respect of the use of a vehicle on any occasion in contravention of section 67 or section 72 of the Road Traffic Act, 1930, or of section 1 of the Road and Rail Traffic Act, 1933, it shall be a defence to prove that the vehicle was on that occasion being used under the authority of this Order or of any permit or defence permit issued thereunder. [1239]

*Public Service Vehicles*

4.—(1) A Commissioner may upon payment of a fee of £2 issue in respect of any public service vehicle (whether a certificate of fitness is in force in relation to that vehicle or not) a permit in lieu of a public service vehicle licence.

(2) Such permit shall have printed on the face of it the words "defence permit" and otherwise shall be in the same form as a public service vehicle licence and shall, subject to the provisions of paragraph 8 hereof, be valid for a period of one year from the date of issue.

(3) Such permit shall at all times during its currency be exhibited on the vehicle in respect of which it is issued in the manner prescribed for a public service vehicle licence by the Public Service Vehicles (Licences and Certificates) Regulations, 1934. [1240]

5. A Commissioner may issue to the holder of a road service licence a permit, in the form specified in Schedule B to this Order for the period stated in the permit, authorising him to provide such a road service as may be specified in the permit, upon the terms and conditions of his road service licence subject to any modifications expressed in the permit. [1241]

6. A Commissioner may on receipt of a fee of 5s. issue a permit in the form specified in Schedule C to this Order authorising for a period not exceeding one week a temporary road service subject to any conditions expressed in the permit. [1242]

7. A Commissioner may on receipt of a fee of £1 issue a permit in the form specified in Schedule D to this Order authorising for a period exceeding one week but not exceeding one year a road service subject to any conditions expressed in the permit. [1243]

*Revocation and Suspension of Permits*

8.—(1) A Commissioner may at any time revoke or suspend any permit issued under paragraph 2, 4, 5, 6 or 7, or vary by endorsement any permit issued under paragraph 5, 6 or 7 of this Order.

(2) If a certifying officer or a public service vehicle examiner appointed under section 69 of the Road Traffic Act, 1930, is of opinion that a public service vehicle owing to any defects therein, is or is likely to become unfit for service until the defects have been remedied, he may serve upon the person authorised to use the vehicle in virtue of a permit issued under paragraph 4 of this Order a notice forbidding the use of the vehicle until the defects have been remedied, and thereupon the authority of the permit shall be suspended until a certifying officer or a public service vehicle examiner has withdrawn the notice.

Provided that, where in the opinion of such officer or examiner the defects are such as can be remedied within forty-eight hours, and are not defects which involve danger to the public, the notice shall not operate before the expiration of forty-eight hours and shall not operate after the expiration of that period, if such officer or examiner, being satisfied that the defects have been or are in course of being remedied, withdraws the notice before the expiration of that period.

Provided further that the provisions of sub-section (4) of section 71 of the Road Traffic Act, 1930, shall apply as though the permit were a public service vehicle licence, and "the Commissioner" were substituted for the expression "the commissioners". [1244]

*Goods Vehicles*

9.—(1) Any goods vehicle which is authorised under a carriers' licence, and to which is affixed a valid identity certificate may, subject to the provisions of paragraph 11 hereof, be used by the holder of the licence as he thinks fit from time to time either for the carriage of goods of all classes for any distance for hire or reward or for the purposes of any trade or business carried on by him.

(2) A Commissioner may issue in respect of any goods vehicle a permit (herein referred to as a "defence permit") and the vehicle may, subject to such conditions restricting the use of the vehicle as the Commissioner may think fit to attach, be used by the holder of the defence permit as he thinks fit from time to time either for the carriage of goods of all classes for any distance for hire or reward or for the purposes of any trade or business carried on by him.

(3) A defence permit shall have printed on the face of it the words "defence permit" and shall otherwise be in the same form as an identity certificate.

(4) It shall be a condition of every defence permit that the provisions of sub-sections (1) and (4) of section 16 of the Road and Rail Traffic Act, 1933, and the regulations made thereunder shall be complied with as though such defence permit were a licence within the meaning of that Act.

Provided that a Commissioner shall have as regards a defence permit the like powers to dispense with the requirements of such regulations as the licensing authority has as regards a licence under sub-section (3) of the said section 16. [1245]

10.—(1) The fee payable to the Commissioner for the issue of a defence permit and the period of currency of such permit shall be :—

- (a) in the case of a person who in the opinion of the Commissioner might, but for the existence of a state of emergency, have reasonably applied for an "A" carriers' licence :

Fee : £1 10s.

Currency : one year.

- (b) in the case of a person who in the opinion of the Commissioner might, but for the existence of a state of emergency, have reasonably applied for a "B" carriers' licence :

Fee : £1 15s.

Currency : one year.

- (c) in the case of a person who in the opinion of the Commissioner might, but for the existence of a state of emergency, have reasonably applied for a "C" carriers' licence :

Fee : £1 15s.

Currency : five years.

Provided that the Commissioner may in his discretion issue a defence permit for a currency not exceeding three months at a fee of 10s. and the period of such currency shall be stated in the permit.

Provided also that the Commissioner may, if for administrative reasons he deems it desirable, issue a defence permit for such period, being shorter than the full currency period, as he may deem to be expedient ; and the fee payable for such a permit—

- (i) for which the fee for the full currency period would be £1 10s. shall be 2s. 6d. for each month or part of a month ;

- (ii) for which the fee for the full currency period would be £1 15s. shall be 3s. for each month or part of a month ; and
- (iii) for which the fee for the full currency period would be £1 5s. shall be 2s. 6d. for each period of six months or part of such period.
- (2) Where, during the currency of an identity certificate or a defence permit, a vehicle is substituted for the vehicle therein identified, the Commissioner may issue without fee a defence permit in respect of the substituted vehicle valid for the remainder of the currency of the original certificate or permit and the Commissioner may require as a condition of such issue the return of the original certificate or permit.
- (3) On the expiry of an identity certificate and on the payment of any instalment of the fee then due in respect of the vehicle as provided in regulation 14 of the Goods Vehicles (Licences and Prohibitions) Regulations, 1936, a Commissioner may issue a defence permit in lieu of a further identity certificate. [1246]

11. If a Commissioner serves upon any person authorised to use a vehicle under paragraph 9 of this Order a notice stating that in his opinion it is inexpedient that such person should continue to use the vehicle under that authority, then that authority shall cease, but the Commissioner may issue to such person without further fee a new defence permit authorising him to use his vehicle in accordance with such conditions as may be stated in that permit ; such permit shall be expressed to expire not later than the date of expiry of the original certificate or permit and the Commissioner may require as a condition of such issue the return of the original certificate or permit. [1247]

#### *Conditions of Permits and Defence Permits*

12.—(1) It shall be a condition of every permit or defence permit issued under this Order that it shall be returned on demand to the Commissioner who issued it.

(2) It shall be a condition of every permit or defence permit specified in column 2 of Schedule E to this Order that the provisions of the regulations specified opposite thereto in column 1 of that Schedule shall be complied with as though the permit or defence permit were a licence within the meaning of those regulations and “ the Commissioner ” were substituted for the expression “ the commissioners ” or “ the licensing authority ” wherever they occur. [1248]

#### *Duplicate Permits and Defence Permits*

13. A Commissioner, if he is satisfied that a permit issued under paragraph 2 or under paragraph 4 of this Order or a defence permit issued under paragraph 9 or 11 of this Order has been lost, destroyed or defaced, may issue on payment of the appropriate fee specified hereunder a duplicate so marked, and the duplicate so issued shall have the same effect as the original permit.

	<i>Fee</i>	
	<i>s.</i>	<i>d.</i>
For a duplicate of a permit issued under paragraph 2 or of a defence permit issued under paragraph 9 or paragraph 11 . . . . .	1	0
For a duplicate of a permit issued under paragraph 4	2	6

[1249]

*Road Traffic Act, 1930, section 19*

14. Section 19 of the Road Traffic Act, 1930, as amended, shall not apply in relation to the driving of motor vehicles while used for the haulage of materials or supplies for Government purposes in defence services.

Provided that no person shall cause or permit any person employed by him or subject to his orders to drive for any period of driving in excess of that permitted under that section unless the fact that the driver is employed on such work has been entered by the holder of the licence or defence permit on the current record required to be kept by him and unless immediately after each excess period of driving the driver has at least ten consecutive hours for rest. [1250]

*Exemption from licensing provisions of the Finance Act, 1920, and the Roads Act, 1920*

15. A certificate issued in pursuance of paragraph (5) of regulation 72 shall be—

- (a) in the case of a vehicle being used for the purposes of His Majesty's Service, in the form specified in Schedule F to this Order, and signed by the user of the vehicle or by some duly authorised person in his behalf;
- (b) in any other case in the form specified in Schedule G to this Order signed on behalf of a local authority exercising functions in connection with a service designated in the next following paragraph and bearing the impression of the stamp of that local authority and also of the stamp of the Ministry of Transport. [1251]

16. The services designated by the Minister for the purposes of paragraph (5) of regulation 72 as services which appear to him to be essential for the defence of the realm or the efficient prosecution of the war or essential to the life of the community are the following :—

The removal, by reason of the possibility of hostile attack, of sick persons undergoing treatment in any place.

Transport to First-Aid Posts or to hospital of casualties occurring from hostile attack.

Transference of members of the civil population from one area to another by reason of the possibility of hostile attack.

The carrying or drawing of personnel or equipment for exercises, training or other specific duties in connection with Air-Raid Precautions or Auxiliary Fire Service. [1252]

*Citation and Revocation*

17. The Emergency Powers (Defence) Road Vehicles and Drivers Order, 1939, is hereby revoked, so however that nothing in this Order shall affect any right, privilege, obligation or liability, acquired or incurred, under that Order. [1253]

18. This Order may be cited as "The Emergency Powers (Defence) Road Vehicles and Drivers Order, 1940". [1254]

## SCHEDULE A

(See Paragraph 2.)

.....(name) of .....  
 .....(address) is hereby permitted to act as  
 \* a driver of a heavy goods vehicle,  
 \* a driver of a public service vehicle,  
 \* a conductor of a public service vehicle,  
 of the following classes or types .....  
 .....  
 Badge No. ....  
 for one year from the date of this Permit.  
 Date .....

Authorised by the Minister  
 of Transport.

Fee Nil.

Signature of holder .....

[1255]

\* Delete words inapplicable.

## SCHEDULE B

(See Paragraph 3.)

*Permit in lieu of current road service licence*

Mr. .... being the holder of Road Service  
 Licence No. .... is hereby permitted to provide a road service  
 [specify the service] upon the terms and conditions of the said Road Service  
 Licence subject to the modifications set out in the attached schedule.

This Permit is valid from ..... to .....

Authorised by the Minister  
 of Transport.

Date of issue .....

[1256]

## SCHEDULE C

(See Paragraph 6.)

*Permit in lieu of Road Service Licence not in excess of one week*

Mr. (Messrs.) ..... is/are hereby  
 permitted to provide a road service [specify the service] subject to the  
 conditions set out in the attached schedule(s).

Date of issue .....

Authorised by the Minister  
 of Transport.

Period of validity from ..... to .....

Fee 5s. paid.

[1257]

## SCHEDULE D

(See Paragraph 7.)

*Permit in lieu of Road Service Licence for more than a week*

Mr. (Messrs.) ..... is/are hereby  
 permitted to provide a road service [specify the service] subject to the  
 conditions set out in the attached schedule(s).

Authorised by the Minister  
 of Transport.

Date of issue .....

Period of validity from ..... to .....

Fee £1 paid.

[1258]

### SCHEDULE E

<i>Column 1</i> <i>Regulations</i>	<i>(See Paragraph 12.)</i> <i>Column 2</i> <i>Permit or defence permit issued under this Order</i>
Regulations 8, 9, 10, 11, 14, 15, 16, 17, 18 and 19 of the Public Service Vehicles (Drivers and Conductors' Licences) Regulations, 1934; and so much of the Public Service Vehicles (Conduct of Drivers, Conductors and Passengers) Regulations, 1936, and of the Public Service Vehicles (Lost Property) Regulations, 1934, as relate to drivers and conductors.	Permit to act as driver or conductor of a public service vehicle issued under paragraph 2.
Regulations 11, 12, 13 and 14 of the Heavy Goods Vehicles (Drivers' Licences) Regulations, 1936.	Permit to act as driver of a heavy goods vehicle issued under paragraph 2.
Regulations 9, 10, 13, 23, 24 and 50 of the Public Service Vehicles (Licences and Certificates) Regulations, 1934.	Permit issued under paragraph 4, 5, 6 or 7.
Regulations 17, 18, 21 and 22 of the Goods Vehicles (Licences and Prohibitions) Regulations, 1936.	Defence permit issued under paragraph 9 or 11. <div data-bbox="877 808 954 833" style="text-align: right;">[1259]</div>

### SCHEDULE F

<i>Defence of the Realm</i>	<i>(See Paragraph 15.)</i>
<p>.....*</p> <p>This vehicle is being used for the purpose of</p> <p><b>HIS MAJESTY'S SERVICE</b></p> <p>in a case of emergency.</p>	<p>Signed .....</p> <p>Rank .....</p> <p>Unit .....</p>

### SCHEDULE G

<i>Defence of the Realm</i>	<i>(See Paragraph 15.)</i>
<p>.....*</p> <p>This vehicle is being used in a case of emergency for designated services.</p> <p>Signed .....</p> <p>[Ministry of Transport stamp.]</p>	<p>Not to be used after [date of expiry] on behalf of [stamp of local authority].</p> <p style="text-align: right;">[1260]</p>

\* Insert here Index Mark and Registration Number of vehicle or other identifying number.

**EMERGENCY POWERS (DEFENCE) ROAD VEHICLES  
AND DRIVERS (AMENDMENT) ORDER, 1940**

*S. R. & O., 1940, No. 1408*

*July 31, 1940*

In exercise of the powers conferred on him by Regulation 72 of the Defence (General) Regulations, 1939 and of all other powers enabling him in that behalf, the Minister of Transport hereby orders as follows :—

1. The Emergency Powers (Defence) Road Vehicles and Drivers Order, 1940 (hereinafter referred to as the Principal Order) shall have effect as if :—

- (1) the following words were omitted from sub-paragraph (1) of paragraph 2 hereof :—

“ as a driver of a heavy goods vehicle, within the meaning of section 31 of the Road Traffic Act, 1934, or ” ;

- (2) the following sub-paragraphs were substituted for sub-paragraph (2) of paragraph 2 thereof :—

“ (2) Subject to the provisions of paragraph 8 hereof a permit hereafter issued under this paragraph shall be valid for two years from the date of issue and the period of validity of every such permit which is in force at the date hereof is hereby extended for a further period of one year from the date on which such permit is expressed to expire.

- (3) The holder of a licence to drive, or to act as conductor of, a public service vehicle, issued by virtue of section 77 of the Road Traffic Act, 1930, and valid at the date hereof is hereby authorised to drive, or act as conductor of, a public service vehicle, as the case may be, for a period of one year from the date on which such licence is expressed to expire, provided that a Commissioner may at any time revoke or suspend such authority as if it were a permit issued under this paragraph, and provided that in the case of a licence to drive, such authority shall authorise the holder to drive only such type or types of public service vehicle as were specified in his licence.

- (4) Any person of not less than twenty-one years of age, being the holder of a licence to drive vehicles included in Group 1 of the Second Schedule to the Motor Vehicles (Driving Licences) Regulations, 1937, or of a National Service Driving Licence issued under the Emergency Powers (Defence) Road Vehicles and Drivers Order, 1939, permitting him to drive motor vehicles of all descriptions is hereby authorised to drive a heavy goods vehicle within the meaning of section 31 of the Road Traffic Act, 1934 ” ;

- (3) The Schedule to this Order were substituted for Schedule A to the Principal Order. [1261]

2. This Order may be cited as “ The Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1940 ”. [1262]

.....(name) of .....  
 .....(address) is hereby permitted to act as  
     \* a driver  
     \* a conductor } of a public service vehicle

Badge No. ....

for two years from the date of this Permit.

Date.....

[1263]

Fee Nil.

Authorised by the Minister  
of Transport.

Signature of Holder .....

\* \* \* \* \*

\* Delete words inapplicable.

*S. R. & O.*, 1940, *No.* 1730

September 23, 1940

In exercise of the powers conferred on him by Regulation 72 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, the Minister of Transport hereby orders as follows :—

1. The Emergency Powers (Defence) Road Vehicles and Drivers Order, 1940, shall have effect as though—

(a) in paragraph 14 thereof the number “(1)” were inserted after the number “14” and the following were added as subparagraph (2) thereof:—

“(2) A Commissioner may—

- (i) as regards goods vehicles, on the application of a Road Haulage Area Wages Board constituted under the Road Haulage Wages Act, 1938, or
- (ii) as regards public service vehicles, on the application of an organisation representative of operators of public service vehicles and after consultation with an organisation representative of public service vehicle drivers in the district.

by Order, in the form specified in Schedule H to this Order, direct that the said section 19, as amended, shall not apply in relation to the driving of motor vehicles of such classes as may be specified in the Order used for the purposes of any such work, and in any such locality, as may be specified in the Order, for such period as the said Commissioner may prescribe, not being longer than three months.

Provided that such work shall be work which appears to the said Commissioner to be essential for the defence of the realm or the efficient prosecution of the war, or to

be essential to the life of the community ; and provided that he may, in relation to the drivers of vehicles to which the Order applies, impose such restrictions and obligations with respect to hours of work and hours for rest, as he thinks fit."

(b) the Schedule to this Order were added as Schedule H thereto.

[1264]

2. This Order may be cited as "The Emergency Powers (Defence) Road Vehicles and Drivers (Amendment No. 2) Order, 1940". [1265]

#### SCHEDULE

In exercise of the powers conferred on me by the Emergency Powers (Defence) Road Vehicles and Drivers Order, 1940, I hereby order as follows :—

Section 19 of the Road Traffic Act, 1930, as amended, shall not apply in relation to the driving of motor vehicles [here specify the classes] used for the purpose of.....in..... subject to the following restrictions and obligations :—

- (1) After each excess period of driving the driver must have at least hours for rest.
- (2) Any other appropriate conditions.

This Order shall remain in force until

(Signed) .....  
Authorised by the Minister of Transport.

[1266]

\* \* \* \* \*

### EMERGENCY POWERS (DEFENCE) ROAD VEHICLES AND DRIVERS (AMENDMENT NO. 3) ORDER, 1940

*S. R. & O., 1940, No. 2097*

*December 5, 1940*

In exercise of the powers conferred on him by Regulation 72 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, the Minister of Transport hereby orders as follows :—

1. The Emergency Powers (Defence) Road Vehicles and Drivers Order, 1940, shall have effect as though—

- (i) sub-paragraph (b) were omitted from paragraph 15 thereof, and the following sub-paragraphs were inserted in lieu thereof :—

"(b) in the case of a service controlled by a local authority, in the form specified in Schedule G to this Order, signed on behalf of a local authority exercising functions in connection with a service designated by the Minister and bearing the impression of the stamp of that local authority and also of the stamp of the Ministry of Transport ;

(c) in any other case, in the form specified in Schedule G to this Order, signed on behalf of and bearing the impression of the stamp of the Ministry of Transport."

- (ii) paragraph 16 thereof were omitted ;

- (iii) Schedule G thereto were omitted and the following were inserted in its place :—

“ SCHEDULE G

(See paragraph 15.)

*Defence of the Realm*

..... \*

This vehicle is being used in a case of emergency for designated services.

*Signed on behalf of*.....

[Stamp or stamps.]

Not to be used after [date of expiry].” [1267]

2. This Order may be cited as “ The Emergency Powers (Defence) Road Vehicles and Drivers (Amendment No. 3) Order, 1940 ”. [1268]

\* \* \* \* \*

\* Insert here Index Mark and Registration Number of vehicle or other identifying number.

## MOTOR VEHICLES (CONTROL) ORDER, 1940

*S. R. & O.*, 1940, No. 1055

*June 26, 1940*

In pursuance of the power conferred upon me by paragraph (1) of Regulation 19A of the Defence (General) Regulations, 1939, I hereby order as follows :—

1.—(1) Subject as hereinafter provided, a mechanically propelled road vehicle shall not be unattended during the hours of daylight unless—

- (a) (i) the ignition key has been taken away, and
- (ii) the wind-screen, roof, windows and doors of the vehicle are so secured that access cannot be obtained to the driver's seat without unlocking a door of which the key has been taken away ; or
- (b) a part of the mechanism of the vehicle has been taken away so as to render the vehicle incapable of being driven until the part so taken away is replaced ; or
- (c) an adequate and substantial locking device has been applied to the mechanism, the steering-wheel or a road wheel of the vehicle so as to render the vehicle incapable of being driven without removing the locking device, and the locking device has been locked and the key taken away ; or
- (d) in the case of a vehicle in enclosed premises, all entrances to the premises through which the vehicle could be removed are closed by doors or other barriers sufficient to prevent the removal of the vehicle and the doors or other barriers have been locked and the keys taken away :

Provided that in the case of a vehicle engaged in the collection or delivery of goods, letters or parcels and left unattended for a period not exceeding five minutes, it shall not be necessary to comply with the provisions of this paragraph save to the extent that, where the con-

struction of the vehicle so permits, either of the requirements of sub-paragraph (a) of this paragraph shall be complied with.

(2) Subject as hereinafter provided, a mechanically propelled road vehicle shall not be unattended during the hours of darkness unless sub-paragraph (b) or (c) or (d) of paragraph (1) of this Article and, to such extent as the construction of the vehicle permits, sub-paragraph (a) of the said paragraph is complied with :

Provided that this provision shall not apply to a vehicle whilst being used by a duly qualified medical practitioner, a registered veterinary surgeon or a district nurse for the purpose of his or her profession if sub-paragraph (a) of paragraph (1) of this Article is complied with.

(3) This Article shall not apply to—

- (a) a vehicle whilst being used for the purposes of His Majesty's forces or as a police, fire service or civil defence vehicle, or as an ambulance ; or
- (b) a public service vehicle in enclosed premises which are occupied by the owner of the vehicle and have one or more entrances not so secured as to prevent the removal of any mechanically propelled vehicle therein if there are present and on duty at least two men for every entrance not so secured. [1269]

2. It shall be the duty of the owner of a vehicle or, if another person is authorised by or on behalf of the owner of the vehicle for the time being to drive the vehicle, of that person to secure that the provisions of this Order are complied with :

Provided that while the vehicle is in enclosed premises under the care or in the custody of the occupier thereof (whether for reward or not), it shall be the duty of the occupier of the premises to secure that the said provisions are complied with. [1270]

3. A constable in uniform or a member of His Majesty's forces acting in the course of his duty as such may inspect or examine any mechanically propelled road vehicle which is unattended and, if the provisions of this Order have not been complied with, he may take any reasonable steps to render it incapable of being driven. [1271]

4.—(1) In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“ hours of darkness ” has the same meaning as in the Road Transport Lighting Act, 1927 ;

“ hours of daylight ” means any time not being within the hours of darkness ;

“ mechanically propelled road vehicle ” does not include a tramcar or trolley vehicle ;

“ public service vehicle ” has the same meaning as in section 121 of the Road Traffic Act, 1930 ;

“ tramcar ” has the same meaning as in section 121 of the Road Traffic Act, 1930 ; and

“ trolley vehicle ” has the same meaning as in section 121 of the Road Traffic Act, 1930.

(2) For the purposes of this Order, a mechanically propelled road vehicle shall be deemed to be unattended unless a person, not being a person under the age of fourteen years, is in attendance on the vehicle

either in the vehicle or in the immediate vicinity and sight of the vehicle, and is not in attendance on any other mechanically propelled road vehicle. [1272]

5. This Order may be cited as the Motor Vehicles (Control) Order, 1940. [1273]

\* \* \* \*

## MOTOR VEHICLES (GAS-PROPELLED VEHICLES) (VARIATION OF SPEED LIMIT) REGULATIONS, 1940

*S. R. & O., 1940, No. 1065*

*March 4, 1940*

The Minister of Transport in exercise of the powers vested in him under or by virtue of sub-section (4) of Section 10 of the Road Traffic Act, 1930 (hereinafter referred to as "the Act") and of all other powers in that behalf vested in him hereby makes the following Regulations:—

1. These Regulations may be cited as "The Motor Vehicles (Gas-propelled Vehicles) (Variation of Speed Limit) Regulations, 1940". [1274]

2. The provisions of the First Schedule to the Act shall be varied so that the word "trailer" shall not include a trailer drawn by a heavy motor car or a motor car while it is, in either case, being used as a public service vehicle or as a goods vehicle, if the trailer is used solely for the carriage of a container or containers for holding, or plant and materials for producing, for the purpose of the propulsion of the drawing vehicle, any fuel that is wholly gaseous at 60° Fahrenheit under a pressure of 30 inches of mercury. [1275]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [1276]

\* \* \* \*

## TRAFFIC ON HIGHWAYS ORDER, 1940

*S. R. & O., 1940, No. 1299*

*July 1, 1940*

By virtue of his powers under Regulation 70 of the Defence (General) Regulations, 1939, and all other powers him enabling the Minister of Transport hereby orders as follows:—

1. For the purpose of meeting or hindering any actual or apprehended attack by an enemy or of protecting persons and property from the damage involved in any such attack, a Regional Commissioner may give directions prohibiting or regulating the use of vehicles or any class of vehicles on all or any of the highways in any area within his Region and thereafter no vehicles shall be used on such highways otherwise than in accordance with such directions. [1277]

2. This Order may be cited as "The Traffic on Highways Order, 1940". [1278]

\* \* \* \*

**EMERGENCY POWERS (DEFENCE) ACQUISITION AND DISPOSAL OF MOTOR VEHICLES ORDER, 1940**

*S. R. & O., 1940, No. 1352*

*July 18, 1940*

The Minister of Transport, in exercise of his powers under Regulation 55 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf hereby orders as follows :—

**1. In this Order—**

“ Vehicle ” means a mechanically propelled vehicle intended or adapted for use on roads and includes a chassis ;

“ Trolley Vehicle ”, “ Tramcar ”, “ Motor cycle ” and “ Invalid Carriage ” have the same meanings respectively as in the Road Traffic Act, 1930 ;

“ Passenger Vehicle ” means a vehicle (other than a trolley vehicle or a tramcar or a motor cycle or an invalid carriage) constructed or, in the case of a chassis, intended solely for the carriage of passengers and their effects ;

“ Goods Vehicle ” means a vehicle constructed or adapted or, in the case of a chassis, intended for use for the carriage of goods ;

“ Carriage of goods ” includes haulage of goods ;

“ Dealer ” means a person acquiring an unregistered vehicle solely for the purpose of reselling or exporting it as an unregistered vehicle ;

“ Unregistered ” means not registered under the Roads Act, 1920. **[1279]**

**2.** Save as provided in paragraph 3 hereof, no person (other than a dealer) shall acquire an unregistered goods or passenger vehicle except under the authority of a licence granted by the Minister of Transport, or by a person authorised by him in that behalf, and no person shall dispose of an unregistered goods or passenger vehicle except to a dealer or to a person who is authorised as aforesaid to acquire a vehicle of that description. **[1280]**

**3.** Paragraph 2 hereof shall not apply to :—

(1) Government Departments ; or

(2) Persons acquiring or disposing of :—

(i) vehicles which by reason of their construction and the manner in which they are intended to be used would be chargeable with excise duty under subparagraphs (a), (b), (c) or (d) of paragraph 4 of the Second Schedule to the Finance Act, 1920 ;

(ii) vehicles which are intended to be used in a manner which—

(a) would render them exempt from excise duty by reason of the provisions of sub-section (3) of section 18 of the Finance Act, 1924, or

(b) would entitle the person in whose names they might be registered to apply for exemption from excise duty by reason of the provisions of sub-section (1) of section 12 of the Finance Act, 1936 ;

- (iii) vehicles which are road construction vehicles within the meaning of section 10 of the Finance Act, 1936, and are intended to be used for no purpose other than the construction or repair of roads at the public expense ;
  - (iv) vehicles which are intended to be used solely for fire brigade purposes ;
  - (v) road rollers ;
  - (vi) tank vehicles which are intended to be used mainly for the carriage of petroleum or petroleum products.
- [1281]

4. This Order may be cited as " The Emergency Powers (Defence) Acquisition and Disposal of Motor Vehicles Order, 1940 " and shall come into force on 20th July, 1940. [1282]

\* \* \* \* \*

### ROAD VEHICLES (PROHIBITION OF CAMOUFLAGE) ORDER, 1940

*S. R. & O., 1940, No. 1496*

*August 10, 1940*

In virtue of his powers under Regulation 70 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf the Minister of Transport hereby orders as follows :—

1. As from the 26th day of August, 1940, no unauthorised person shall use on any highway any vehicle so painted, or otherwise treated, as to cause it to resemble a camouflaged vehicle in the service of the armed forces of the Crown. [1283]

2. This Order may be cited as " The Road Vehicles (Prohibition of Camouflage) Order, 1940 ". [1284]

\* \* \* \* \*

### ROAD VEHICLES (PROHIBITION OF CAMOUFLAGE) (AMENDMENT) ORDER, 1940

*S. R. & O., 1940, No. 1563*

*August 23, 1940*

In virtue of his powers under Regulations 70 and 98 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, the Minister of Transport hereby orders as follows :—

1. The Road Vehicles (Prohibition of Camouflage) Order, 1940, shall be varied by the substitution in section 1 of that Order of " the 23rd day of September, 1940," for " the 26th day of August, 1940." [1285]

2. This Order may be cited as " The Road Vehicles (Prohibition of Camouflage) (Amendment) Order, 1940 ". [1286]

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## CHARTERED AND OTHER BODIES (TRAFFIC COMMISSIONERS) ORDER, 1940

*S. R. & O.*, 1940, No. 1518

*August 10, 1940*

Whereas by subsection (1) of section two of the Chartered and other Bodies (Temporary Provisions) Act, 1939, it is provided that His Majesty may by Order in Council make, with respect to any corporation or body of persons specified in the Schedule to that Act, such provision for reducing the number of persons who are required to constitute the corporation or body, or to perform any of its functions, as appears to His Majesty to be necessary or expedient for the purpose of securing economy or efficiency in the carrying on of the work of the corporation or body under war conditions :

And whereas by subsection (3) of that section it is provided that, if at any time the draft of an order, directing that the Schedule to that Act shall have effect as if the name of any corporation or body of persons were added thereto, is approved by a Resolution passed by each House of Parliament, an order may be made in the terms of the draft and the said Schedule shall have effect accordingly :

And whereas a draft of this order has been approved by a Resolution passed by each House of Parliament in accordance with the provisions of the said subsection (3) :

Now, therefore, the Minister of Transport in pursuance of the said subsection (3) hereby orders as follows :—

1. The Schedule to the Chartered and other Bodies (Temporary Provisions) Act, 1939, shall have effect as if there were added thereto the names of the bodies of persons following, that is to say :—

Name of body	Act by or under which constitution is regulated
The Traffic Commissioners for any traffic area.	The Road Traffic Act, 1930, as amended by subsequent enact- ments.

[1287]

2. This Order may be cited as the Chartered and other Bodies (Traffic Commissioners) Order, 1940. [1288]

\* \* \* \*

## TRAFFIC COMMISSIONERS (REDUCTION OF NUMBER) ORDER, 1940

*S. R. & O.*, 1940, No. 1797

*August 15, 1940*

At the Court at Buckingham Palace, the 15th day of August, 1940.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of section two of the Chartered and other Bodies (Temporary Provisions) Act, 1939, as amended by the Chartered

and other Bodies (Traffic Commissioners) Order, 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows :—

1. The number of persons that are required by section sixty-three of the Road Traffic Act, 1930, to constitute the traffic commissioners for any traffic area shall be reduced to one, who shall be the person who, immediately before the making of this Order, was the chairman of the commissioners or, if the office of chairman was then vacant or if that person subsequently vacates office, shall be appointed in the same manner as the chairman is required by that section to be appointed. [1289]

2. The operation of sub-section (4) of section sixty-three and of sub-sections (2) and (3) of section sixty-four of the said Act shall be suspended so long as this Order is in force. [1290]

3. This Order may be cited as the Traffic Commissioners (Reduction of Number) Order, 1940. [1291]

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## LONDON PASSENGER TRANSPORT BOARD (PUBLIC SERVICE VEHICLES) (NO. 2) ORDER, 1940

*S. R. & O., 1940, No. 2075*

*December 4, 1940*

In virtue of his powers under Regulation 56 of the Defence (General) Regulations, 1939 and of all other powers enabling him in that behalf the Minister of Transport hereby orders as follows :—

1. Notwithstanding any limitation imposed upon the London Passenger Transport Board by the London Passenger Transport Act, 1933, the Board may from the date of this Order run any public service vehicle for a distance not exceeding 5 miles on any road outside the London Passenger Transport Area for the purpose of carrying passengers in cases where a railway service has been interrupted through causes directly or indirectly due to enemy action. [1292]

2. This Order may be cited as “The London Passenger Transport Board (Public Service Vehicles) (No. 2) Order, 1940”. [1293]

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## MOTOR VEHICLES (GAS CONTAINER) (AMENDMENT) PROVISIONAL REGULATIONS, 1940

*P. R. & O., 1940*

*June 22, 1940*

Whereas in exercise of the powers conferred on him by the Road Traffic Act, 1930, the Minister of Transport on the 15th May, 1940, made the Motor Vehicles (Gas Container) Provisional Regulations, 1940 (hereinafter referred to as “the Principal Regulations”).

And whereas it is expedient that the provisions of the Principal Regulations should be modified in manner hereinafter appearing.

Now, therefore, the Minister of Transport in exercise of the powers conferred on him as aforesaid hereby makes the following Regulations, and further certifies under Section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until Statutory Rules shall have been made in accordance with the last-mentioned Act.

1. These Regulations may be cited as "The Motor Vehicles (Gas Container) (Amendment) Provisional Regulations, 1940". [1294]

2. The Principal Regulations shall have effect as though the following Regulation were substituted for Regulation 8 thereof:—

"8.—(1) Every valve or cock intended to be subjected to a pressure exceeding 100 lb. per square inch shall be of forged steel or of brass or bronze complying with the specification contained in the Schedule to these Regulations.

(2) A valve or cock shall be fitted to the pipe line to enable the supply of gas from the container or containers to the mixing device to be shut off, and in the case of a pressure pipe line shall be situated between the reducing valve and the container or containers and such valve or cock shall be readily visible and accessible from the outside of the vehicle.

(3) In the case of a pressure pipe line a notice indicating the position and method of operation of the valve or cock referred to in paragraph (2) hereof shall be affixed in a conspicuous position on the outside of the vehicle carrying the gas container or containers." [1295]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [1296]

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## MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT NO. 2) PROVISIONAL REGULATIONS, 1940

*P. R. & O., 1940*

*June 22, 1940*

Whereas in exercise of the powers conferred on him by the Road Traffic Act, 1930, the Minister of Transport on the 24th March, 1937, made the Motor Vehicles (Construction and Use) Regulations, 1937 (hereinafter referred to as "the Principal Regulations"), and on the 10th May, 1937, made the Motor Vehicles (Construction and Use) (Track Laying Vehicles) Provisional Regulations, 1937 (hereinafter referred to as "the Track Laying Regulations");

And whereas the Regulations aforesaid have been amended;

And whereas it is expedient that the provisions of the Regulations aforesaid should be further modified in manner hereinafter appearing;

Now, therefore, in exercise of the powers conferred on him as aforesaid, the Minister of Transport hereby makes the following Regula-

tions and further certifies under Section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until Statutory Rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Motor Vehicles (Construction and Use) (Amendment No. 2) Provisional Regulations, 1940". [1297]

2. Regulation 11 of the Principal Regulations shall have effect as though in paragraph (1) thereof there were inserted after "12 m.p.h." the following :—

"or (f) a vehicle which is incapable by reason of its construction of exceeding a speed of 12 m.p.h. on the level under its own power." [1298]

3. Regulations 36 and 41 of the Principal Regulations and Regulation 34 of the Track Laying Regulations shall have effect in each case as though there were added thereto the following further proviso :—

"Provided further that this Regulation shall not apply in the case of a vehicle in an unfinished condition proceeding to a works for completion." [1299]

4. Regulation 53 of the Principal Regulations and Regulation 40 of the Track Laying Regulations shall have effect in each case as though in the proviso thereto the words "to trailers in an unfinished condition proceeding to a works for completion" were inserted after the words "shall not apply". [1300]

5. Regulation 77 of the Principal Regulations and Regulation 63 of the Track Laying Regulations shall have effect in each case as though there were added thereto the following further proviso :—

"Provided further that this Regulation shall not apply in the case of a motor vehicle which is propelled by gas produced in a plant carried on the vehicle or on a trailer drawn by the vehicle." [1301]

6. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [1302]

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## MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT NO. 3) PROVISIONAL REGULATIONS, 1940

*P. R. & O., 1940*

*December 20, 1940*

Whereas in exercise of the powers conferred on him by the Road Traffic Act, 1930, the Minister of Transport on the 24th March, 1937, made The Motor Vehicles (Construction and Use) Regulations, 1937, (hereinafter referred to as "the Principal Regulations"), and on the 10th May, 1937, made The Motor Vehicles (Construction and Use)

(Track Laying Vehicles) Provisional Regulations, 1937 (hereinafter referred to as "the Track Laying Regulations") :

And whereas the Regulations aforesaid have been amended :

And whereas it is expedient that the provisions of the Regulations aforesaid should be further modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers conferred on him as aforesaid, the Minister of Transport hereby makes the following Regulations and further certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until Statutory Rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Motor Vehicles (Construction and Use) (Amendment No. 3) Provisional Regulations, 1940". [1303]

2. Regulation 12 of the Principal Regulations and Regulation 13 of the Track Laying Regulations shall have effect as though in each case in paragraph (i) of the proviso thereto there were substituted for the date "1st January, 1941" the date "1st January, 1942". [1304]

3. Regulation 35 of the Principal Regulations and Regulation 31 of the Track Laying Regulations shall have effect as though in each case in the first proviso thereto there were substituted for the date "1st January, 1941," the date "1st January, 1942". [1305]

4. Regulation 37 of the Principal Regulations shall be omitted and the following shall be inserted in its place :—

"37. The overall width of a motor car shall not exceed 7 feet 6 inches." [1306]

5. Regulation 40 of the Principal Regulations and Regulation 33 of the Track Laying Regulations shall have effect as though in each case in the first proviso thereto there were substituted for the date "1st January, 1941," the date "1st January, 1942". [1307]

6. Regulation 52 of the Principal Regulations and Regulation 39 of the Track Laying Regulations shall have effect as though in each case there were substituted for the date "1st January, 1941," the date "1st January, 1942". [1308]

7. Regulation 89 of the Principal Regulations shall have effect as though they were substituted for the date "1st January, 1941," the date "1st January, 1942". [1309]

8. Regulation 32 of the Track Laying Regulations shall be omitted and the following shall be inserted in its place :—

"32. The overall width of a motor car shall not exceed 7 feet 6 inches." [1310]

9. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [1311]

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## THE MOTOR VEHICLES (DEFINITION OF MOTOR CARS) (NO. 2) PROVISIONAL REGULATIONS, 1940

*P. R. & O., 1940*

*December 20, 1940*

The Minister of Transport, under and by virtue of the powers conferred upon him by section 2 of the Road Traffic Act, 1930, and of all other powers in that behalf vested in him hereby makes the following Regulations and further certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until Statutory Rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Motor Vehicles (Definition of Motor Cars) (No. 2) Provisional Regulations, 1940". [1312]

2. The Motor Vehicles (Definition of Motor Cars) Provisional Regulations, 1940, are hereby revoked. [1313]

3. The class of motor vehicles defined as "motor cars" in subsection (1) of section 2 of the Road Traffic Act, 1930, shall be further sub-divided by the making of two new sub-divisions as follows :—

" Vehicles constructed or adapted for use for the conveyance of goods or burden of any description carrying a container or containers for holding for the purpose of their propulsion any fuel that is wholly gaseous at 60° Fahrenheit under a pressure of 30 inches of mercury or plant and materials for producing such fuel, the maximum weight unladen of which does not exceed 3½ tons."

" Vehicles which are constructed or adapted for use for the conveyance of goods or burden of any description other than such vehicles last above mentioned, the maximum weight unladen of which does not exceed 3 tons." [1314]

4. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [1315]

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## ROAD VEHICLES (REGISTRATION AND LICENSING) (AMENDMENT) PROVISIONAL REGULATIONS, 1940

*P. R. & O., 1940*

*December 20, 1940*

Whereas on the 23rd December, 1924, the Minister of Transport made the Road Vehicles (Registration and Licensing) Regulations, 1924 (hereinafter referred to as "the Principal Regulations").

And whereas the Principal Regulations have been amended.

And whereas it is expedient that the provisions of the Principal Regulations should be further amended in manner hereinafter appearing.

Now, therefore, in exercise of the powers vested in him the Minister of Transport hereby makes the following Regulations and further certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until Statutory Rules have been made in accordance with the last-mentioned Act.

1. These Regulations may be cited as "The Road Vehicles (Registration and Licensing) (Amendment) Provisional Regulations, 1940". [1816]

2. Notwithstanding anything contained in proviso (b) to Article B of Regulation 30 of the Principal Regulations, for the duration of the present war it shall not be an infringement of that Regulation for a new vehicle used under a Limited Trade Licence in the course of its delivery to a purchaser or to a port for export to carry any load so long as that load is not carried for hire or reward. [1317]

3. The Interpretation Act, 1889, applies for the purpose of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [1318]

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## CASES

*Summary Jurisdiction—Motor Omnibus Driver Charged with Driving Without due Care and Attention and Charge Dismissed—Conductor of same Vehicle Charged with Aiding and Abetting Offence Alleged against Driver—Conductor Convicted—Validity of Conviction—Road Traffic Act, 1930 (c. 43), s. 12 (1).*

A motor-omnibus driver was charged under Road Traffic Act, 1930, s. 12 (1), with driving a motor-omnibus without due care and attention, and with driving without reasonable consideration for other persons using the road. The conductor of the same omnibus was charged under Summary Jurisdiction Act, 1848, s. 5, with aiding and abetting the offences alleged against the driver. On the hearing before the magistrates, it was found that the omnibus was being reversed, and that, as the driver could not see the road behind him, it was the duty of the conductor to signal that the road was clear. The conductor gave the signal when in fact there were two pedestrians behind the omnibus, and these were knocked down and one fatally injured. The magistrates dismissed both charges against the driver, but convicted the conductor on the first of the charges against him and dismissed the second. The conductor appealed:—

*Held:* the conductor could not be convicted of aiding and abetting the principal in what the principal was not doing, and he could not be convicted as principal, because, on the particular words of s. 12 (1) of the Act of 1930, only the driver could be guilty of the principal offence. —THORNTON v. MITCHELL, [1940] 1 All E. R. 339; 162 L. T. 296; 104 J. P. 108; 56 T. L. R. 296; 84 Sol. Jo. 257; 38 L. G. R. 168, D. C. [1319]

*Vehicle left at Rest—Handbrake insufficiently Applied—Accident through Vehicle's descending Gradient—Whether Offence of leaving Vehicle*

"at rest in such circumstances as . . . to cause danger" committed—*Road Traffic Act, 1930* (20 & 21 Geo. 5, c. 43), s. 50.

By s. 50 of the *Road Traffic Act, 1930*: "If any person in charge of a vehicle causes or permits the vehicle . . . to remain at rest on any road in such a position or in such condition or in such circumstances as to be likely to cause danger to other persons using the road, he shall be guilty of an offence." The driver of a trolley-bus left the vehicle at rest at the near side of a road without first sufficiently applying the hand-brake. The vehicle, being on a slight gradient, moved forward of its own weight and knocked down a pedestrian before the driver had time to remount and halt it:—

*Held*: an offence had been committed within the meaning of the section, its terms being wide enough to include the circumstances in question notwithstanding that the vehicle caused injury while moving and not while at rest.—*MAGUIRE v. CROUCH* (1940), 104 J. P. 445; 57 T. L. R. 75; 84 Sol. Jo. 608, D. C. [1320]

*Traffic Sign—Motor-driver Charged with Failing to Conform—No Proof that Sign of "prescribed size, colour, and type"—Evidence Incomplete—Road Traffic Act, 1930* (20 & 21 Geo. 5, c. 43), ss. 48, 49, as amended by the *Road Traffic Act, 1934* (24 & 25 Geo. 5, c. 50), Sched. III.

Where a motor-driver is charged with contravening s. 49 of the *Road Traffic Act, 1930* (as amended), by failing to conform to the direction given by a traffic sign, it is necessary in order to establish that offence, that the prosecution should prove that the sign was of the "prescribed size, colour, and type" in accordance with s. 48 (2).—*SWIFT v. BARRETT* (1940), 163 L. T. 154; 104 J. P. 239; 56 T. L. R. 650; 84 Sol. Jo. 320; 38 L. G. R. 248, D. C. [1321]

*Lighting of Vehicles—"Road"—Forecourt of Hotel—User by Public but not as of Right—Road Transport Lighting Act, 1927* (17 & 18 Geo. 5, c. 37), ss. 1 (1), 15—*Road Vehicles Lighting Regulations, 1936* (S. R. & O., 1936, No. 392), Art. 6.

By s. 1 (1) of the *Road Transport Lighting Act, 1927*, "... every vehicle on any road shall during the hours of darkness carry" certain lights. By s. 15: "For the purposes of this Act, unless the context otherwise requires . . . the expression 'road' means any public highway and any other road to which the public has access."

An unlighted vehicle was left in the forecourt of a hotel. The forecourt was the private property of the owners of the hotel, and the public had no access to it as of right, but there was no obstruction of any kind separating the forecourt from the High Street of the town, and members of the public had used the forecourt without let or hindrance, not only to reach the hotel, but also as a short cut from the High Street to another street, and on occasions vehicles had been over and through it. The justices held that the forecourt was a "road" within the meaning of s. 15 and that the owner of the vehicle was, accordingly, guilty of a contravention of s. 1:—

*Held*: there was evidence to support the justices' decision.—*BUGGE v. TAYLOR* (1940), 104 J. P. 467, D. C. [1322]

# SETTLEMENT AND REMOVAL

*See PUBLIC ASSISTANCE.*

## SHOPS

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## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL ADDING REGULATIONS 60A . . . TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 1968*

*November 8, 1940*

\* \* \* \* \*

3. After the Regulation directed by the last foregoing Article to be substituted for Regulation sixty of the principal Regulations there shall be inserted the following Regulation :—

**60A. “Temporary amendments of enactments relating to the closing of shops.**—(1) Subsection (1) of section one of the Shops (Hours of Closing) Act, 1928 (which provides that every shop shall, save as otherwise provided by that Act, be closed for the serving of customers not later than the hours therein mentioned) shall, except as respects the trade or business of selling tobacco and smokers' requisites and the trade or business of selling newspapers and periodicals, have effect as if for the references therein to nine o'clock and eight o'clock there were respectively substituted references to half-past seven o'clock and six o'clock.

(2) The following subsections shall be inserted after subsection (2) of the said section one—

‘(2A) A local authority may, except as respects the trade or business of selling tobacco and smokers' requisites and the trade or business of selling newspapers and periodicals, by order substitute other hours (whether earlier or later) for the general closing hours fixed by subsection (1) of this section :

Provided that the substituted hours shall not be later than seven o'clock in the evening except on not more than two days (one of which shall be the late day) when the substituted hours may be not later than eight o'clock in the evening.

(2B) Before making any order under the last preceding subsection the local authority shall take such steps, whether by consultation with representative associations or otherwise, as appear

to the authority to be most appropriate for ascertaining the views of occupiers of shops and shop assistants affected by the order, and any such order—

- (a) may be made so as to apply to the whole or any part of the area of the local authority ;
- (b) may be made so as to apply to all trades or businesses or to any specified trade or business ;
- (c) may fix different hours for different days of the week and for different trades or businesses ; and
- (d) may contain such incidental and supplementary provisions as appear to the local authority to be necessary or expedient for the purposes of the order.

(3) The said Act shall, as respects the business of a barber or hairdresser, have effect as if after section three thereof there were inserted the following section—

**3A. 'Special provisions as to barbers and hairdressers.**—As respects the business of a barber or hairdresser, the general closing hours shall be eight o'clock in the evening on the late day and seven o'clock in the evening of any other day :

Provided that the local authority may by order direct that the general closing hours shall be eight o'clock in the evening on one other day, to be specified in the order, besides the late day, and subsection (2B) of section one of this Act shall apply in relation to any order under this proviso as it applies in relation to the orders therein mentioned.

(4) In the case of a shop as respects which—

- (a) an order under section five or section six of the Shops (Hours of Closing) Act, 1928 ; or
- (b) a closing order under the Shops Act, 1912, was in force on the sixteenth day of November, nineteen hundred and forty, the foregoing provisions of this Regulation shall not be construed, in the case of an order under either of the said sections, as making earlier, or, in the case of such a closing order, as making later, the hours at which the shop is required to be closed while the order remains in force.

(5) This Regulation shall have effect only as respects the period beginning with the seventeenth day of November, nineteen hundred and forty and ending with the second day of March, nineteen hundred and forty-one :

Provided that the powers exercisable by virtue of paragraph (2) and paragraph (3) of this Regulation may be exercised at any time before the said seventeenth day of November, so, however, that any order made under either of those powers shall not come into operation until that date." [1923]

\* \* \* \* \*

ORDER IN COUNCIL ADDING REGULATION 60AA TO  
THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 2001*

*November 19, 1940*

At the Court at Buckingham Palace, the 19th day of November,  
1940.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered that after Regulation sixty A of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

**60AA. "Special temporary provision for closing of shops in London Areas.—**(1) Every shop to which this Regulation applies shall be closed for the serving of customers not later than four o'clock in the afternoon on every day :

Provided that nothing in this paragraph shall prevent—

- (a) the supply of an article to a customer after the said hour where it is proved that the customer was in the shop before that hour, or that reasonable grounds existed for believing that the article was required in the case of illness ; or
- (b) the transaction after the said hour of any exempted business.

(2) At least one half of the number of persons wholly or mainly employed on any day in a shop to which this Regulation applies about the business of the shop shall not be employed about the business of the shop after half past three o'clock in the afternoon on that day :

Provided that in calculating for the purpose of this paragraph the number of persons employed as aforesaid on any day there shall be disregarded—

- (a) any of those persons who on that day are wholly or mainly employed for the purpose of exempted business ;
- (b) any other of those persons for whom suitable sleeping accommodation on the premises is provided by the occupier of the shop and who have arranged to use that accommodation on the night of that day.

(3) In the case of persons wholly or mainly employed in any shop to which this Regulation applies about the business of the shop (not being persons wholly or mainly employed for the purpose of exempted business) it shall not be necessary for the interval of dinner required to be allowed under section one of the Shops Act, 1912, to be increased to one hour wherever the meal is taken ; and, accordingly, in relation to any such person, the First Schedule to the said Act shall have effect as if the words from ' and the interval ' to ' attached ' were omitted.

(4) This Regulation applies to every shop within such areas, or adjoining such streets, being areas or streets in the administrative county of London, as may be specified by order made by the Secretary of State :

Provided that this Regulation shall not apply—

- (a) to any shop in which the only trade or business carried on consists of exempted business ; or
- (b) to any shop, as respects any week on every day of which less than five persons (exclusive of any persons wholly or mainly employed for the purpose of exempted business) are wholly or mainly employed in the shop about the business of the shop.

(5) The occupier of any shop to which this Regulation applies shall—

- (a) cause a notice to be kept conspicuously posted in the shop stating that the shop will be closed, or, as the case may be, will be closed except for the purpose of any exempted business, at four o'clock in the afternoon ; and
- (b) keep records showing—
  - (i) the number of persons (exclusive of any persons wholly or mainly employed for the purpose of exempted business) wholly or mainly employed in the shop about the business of the shop on each day ;
  - (ii) the names of such (if any) of those persons as have used, on the night of each day, such accommodation as is mentioned in the proviso to paragraph (2) of this Regulation ; and
  - (iii) the names of such of those persons as are not employed about the business of the shop after half past three o'clock in the afternoon on each day.

(6) If the provisions of this Regulation are not complied with in the case of any shop, the occupier of the shop shall be guilty of an offence against this Regulation.

(7) Proceedings in respect of an offence under this Regulation may be instituted, as respects any shop within their respective areas, by the Common Council of the City of London or the London County Council, or by any inspector appointed by those Councils respectively under section thirteen of the Shops Act, 1912 ; and any such inspector shall have, for the purpose of the enforcement of the provisions of this Regulation, all such functions as are conferred on him by the said section thirteen.

(8) In this Regulation—

- (a) the expressions ' shop ' and ' week ' have the same meanings as in the Shops Act, 1912 ;
- (b) the expression ' exempted business ' means any transaction which, by virtue of paragraph (b) of subsection (3) of section one of the Shops (Hours of Closing) Act, 1928, may lawfully be transacted after the closing hour, and any other transaction in the course of the following trades or businesses—
  - (i) the sale of food or drink of any description for human consumption ;
  - (ii) the sale of newspapers or periodicals ;
  - (iii) any trade or business specified in section two, section three or section three A of the Shops (Hours of Closing) Act, 1928 (which relate to confectioners, tobacconists and barbers and hairdressers) ;

and subsection (2) of section fifteen of the Shops Act, 1934, shall apply for the purposes of this Regulation as it applies for the purpose of that Act.

(9) This Regulation shall have effect only as respects the period beginning with the twenty-fourth day of November, and ending with the twenty-eighth day of December, nineteen hundred and forty :

Provided that any order under paragraph (4) of this Regulation may be made before the said twenty-fourth day of November so as to come into operation on that date." [1324]

\* \* \* \*

## ORDER IN COUNCIL AMENDING REGULATION 60AA . . . AND ADDING A THIRD SCHEDULE TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1940, No. 2086*

*December 4, 1940*

\* \* \* \*

1. . . .

(2) After the Second Schedule to the principal Regulations there shall be added the following Schedule :—

### “ THIRD SCHEDULE

MANNER IN WHICH PROCEEDINGS MAY BE INSTITUTED IN RESPECT  
OF OFFENCES AGAINST CERTAIN PROVISIONS OF THE REGULATIONS

Provision of the Regulations	Manner of institution of Proceedings
* * *	* * *
Regulation 60AA      -   -   -	As respects any shop within their respective areas, by the Common Council of the City of London or the London County Council, or by any inspector appointed by those councils respectively under section 13 of the Shops Act, 1912.”

\* \* \* \*

(3) For paragraph (7) of Regulation 60AA of the principal Regulations there shall be substituted the following paragraph :—

“ (7) Inspectors appointed by the Common Council of the City of London and the London County Council respectively under section thirteen of the Shops Act, 1912, shall, for the purpose of the enforcement of the provisions of this Regulation, have all such functions as are conferred on them by that section.”

[1325]

\* \* \* \*

## SLAUGHTERHOUSES AND KNACKERS' YARDS

*See REGULATED INDUSTRIES, TRADES AND BUSINESSES.*

## SMALL DWELLINGS

*See HOUSING.*

## SPECIAL CONSTABLES

*See POLICE.*

## STATUTES AND STATUTORY RULES AND ORDERS

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### STATUTES

#### THE EXPIRING LAWS CONTINUANCE ACT, 1940

(4 & 5 Geo. 6, c. 2)

*An Act to continue certain expiring laws.* [19th December 1940].

Whereas the Acts mentioned in the Schedule to this Act are, in so far as they are in force and are temporary in their duration, limited to expire on the thirty-first day of December nineteen hundred and forty :

And whereas it is expedient to provide for the continuance, as in this Act mentioned, of those Acts and of the enactments amending or affecting the same :

Be it therefore enacted, etc.

**1. Continuance of Acts in Schedule.**—(1) The Acts mentioned in Part I of the Schedule to this Act shall, to the extent specified in column three of that Part of that Schedule, be continued until the thirty-first day of December nineteen hundred and forty-one.

(2) The Act mentioned in Part II of the Schedule to this Act shall, to the extent specified in column three of that Part of that Schedule, be continued until the thirty-first day of March nineteen hundred and forty-two.

(3) Any unrepealed enactments which are temporary in their duration shall, in so far as they amend or affect any enactment continued by the foregoing provisions of this Act, be continued in like manner as that enactment whether they are mentioned in the Schedule to this Act or not. [1326]

**2. Short title and application to Northern Ireland.**—(1) This Act may be cited as the Expiring Laws Continuance Act, 1940.

(2) This Act shall apply to Northern Ireland in so far as it deals with any enactment relating to a subject with respect to which the Parliament of Northern Ireland has not power to make laws, but, save as hereinbefore provided, shall not apply to Northern Ireland. [1327]

### SCHEDULE

#### Section 1.

#### PART I

(1)	(2)	(3)	(4)
Session and Chapter.	Short title.	How far continued.	Amending Acts.
* * *	* * *	* * *	* * *
(6) 20 & 21 Geo. 5, c. 50.	The Public Works Facilities Act, 1930.	The following provisions, that is to say, section two, except the words "or statutory undertakers", wherever those words occur; in section three, the words from the beginning of the section to the word "undertaking"; section five; subsections (1) and (2) of section six; sections seven and eight; and the First Schedule except paragraph 2 of Part I.	—
* * *	* * *	* * *	* * *
(9) 24 & 25 Geo. 5, c. 50.	The Road Traffic Act, 1934.	Section one . . .	1 Edw. 8, & 1 Geo. 6, c. 5.

[1328]

As to the Public Works Facilities Act, 1930, note that s. 1, part of s. 3, and 2nd Schedule lapsed in 1935; see the Expiring Laws Continuance Act, 1935 (23 Statutes 349, 350).

## THE SPECIAL ENACTMENTS (EXTENSION OF TIME) ACT, 1940

(3 & 4 GEO. 6, c. 16)

### PRELIMINARY NOTE

This Act makes provisions similar to those included in the Special Acts (Extension of Time) Act, 1915. Its object is to assist a local authority or a statutory undertaker which has obtained authority by means of a Local Act to construct new works, purchase land, etc., and which has not been able to complete the works or proceed with the purchase, etc., by the prescribed date. The normal course would be to promote a further Private Bill providing for an extension of time, and satisfy Parliament as to the reason of the delay. Under war conditions, however, delay is likely not to be due to the fault of the local authority or statutory undertaker. By this Act, therefore, the undertakers are relieved of the burden and expense of further Private Bill legislation, and may apply direct to a Minister of the Crown for an extension of time. If the Minister is satisfied that such extension is "requisite or expedient by reason of any circumstances directly or indirectly attributable to war", then, after due notice to the parties concerned and, if need be, a local inquiry, he may make an order extending the time limit. The maximum extension of time that can be granted by an order is three years. No extension can be granted for a time limit included in an Act passed or Order made after the passing of the present Act, unless a contrary intention appears in that Act or Order. Special provision is made for the option to purchase certain electricity undertakings given to local authorities by the Electric Lighting Act, 1888, and subsequent Acts.

Applications for an extension of time must in general be made before the time limit has expired, but not more than three years before that date, and may be made by the local authority or undertaker concerned or by or on behalf of any other interested person.

The Order need not be actually made before the time limit has expired, and, once made, may be modified (*e.g.* extended) by a subsequent Order if need be.

### ARRANGEMENT OF SECTIONS

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*An Act to provide for extensions of time in relation to the discharge of duties imposed, or the exercise of powers conferred, by statutory provisions of a local or private nature, and in relation to the exercise of powers to purchase, or powers of re-entry exercisable in relation to public utility undertakings.* [1329] [25th April 1940.]

**1. Power of appropriate Minister to extend time.**—(1) Where, by or by virtue of provisions regulating the discharge or exercise of a duty or power to which this Act applies, a time is limited or a date is fixed within or at which the duty is to be discharged, or the power may be exercised, or an exercise of the power is to take effect, those provisions may be modified as mentioned in subsection (2) of this section by an order made by the appropriate Minister, if an application in that behalf is duly made to him during the period of the present emergency and he

is satisfied that such modification is requisite or expedient by reason of any circumstances directly or indirectly attributable to war.

(2) An order made under this Act may provide for the extension of any time limited as aforesaid by any period not longer than three years, for the postponement of a date fixed as aforesaid in relation to the discharge of a duty by not more than three years, or for enabling a power to be exercised, or the exercise of a power to take effect, at any date not more than three years later than a date fixed as aforesaid in relation thereto :

Provided that no such order shall contain any provision that would have the effect of reducing the length of any period of notice required to be given in relation to the discharge of a duty or the exercise of a power.

(3) The duties and powers to which this Act applies are—

- (a) any duty or power imposed or conferred by a local or private Act, an order confirmed by an Act, or an order of a local or private nature made under an Act ; and
- (b) any power to purchase, or power of re-entry exercisable in relation to, a public utility undertaking, or part of such an undertaking :

Provided that this Act shall not apply to a duty or power imposed or conferred by an Act passed, or an order made, after the passing of this Act, unless the contrary intention appears in that Act or order.

[1330]

"Circumstances . . . attributable to war".—This expression should be compared with that used in, *e.g.* s. 1 (4) of the Courts (Emergency Powers) Act, 1939 (32 Statutes 946) : "circumstances . . . attributable to any war in which His Majesty may be engaged". The Minister may, *semble*, take into account circumstances attributable to a war in which His Majesty is not engaged.

By the Electric Lighting Act, 1888, s. 2 (7 Statutes 702) and by certain subsequent Acts, local authorities were given an option to purchase electricity undertakings within their areas, at the end of 42 years from the date when the undertakings were authorised to supply electricity. If the option is not exercised then, it revives at intervals of 10 years. Similar provisions exist regarding gas and water undertakings. Such options will shortly become exercisable in various parts of the country, but it is obviously impracticable for purchase rights to be handled with fairness to all parties in the middle of a war, especially with the knowledge that if such rights are not then exercised they will lapse for another 10 years. The present Act therefore provides that on the application of any interested party, *i.e.* either the local authority or the undertaker, the date when the option becomes exercisable may be postponed, with a corresponding adjustment of the dates of subsequent options.

The Act was passed on April 25, 1940, and the proviso is intended to make it clear that the machinery of the Act can be used to vary by orders any duties or powers fixed in some future statute only if that statute expressly so provides.

Up to the end of 1940 eleven orders had been made under this section by the Minister of Health, extending the period limited by provisions to which the powers of the section apply. See also S. R. & O., 1940, No. 1322, modifying certain provisions as to time laid down in the Trent Navigation Act, 1932, for a specimen of an order by another "appropriate Minister".

**2. Provisions as to applications and orders for extension.**—(1) An application for an order under this Act must be made before the expiration of the time within which, or the date at which, the duty to which the application relates is to be discharged, or the power to which it relates may be exercised, but shall not be made more than three years before the expiration of that time, or before that date, as the case may be :

Provided that, if that time expired or that date fell on or after the twenty-first day of February nineteen hundred and forty, such an application may be made within three months from the passing of this Act.

(2) An application for an order under this Act may be made by or on behalf of the person on whom the duty is imposed or the power is conferred, or by or on behalf of any other person appearing to the appropriate Minister to be interested.

(3) Before deciding whether or not to make an order under this Act, the appropriate Minister may require the fulfilment by the applicant for the order, in such manner as may be specified in the requirement, of such conditions with respect to the publication of notices, and the giving of notice to such persons, as may be so specified, and shall afford to any person appearing to the appropriate Minister to be likely to be affected by the making of the order an opportunity of making representations to him, and may, if he thinks fit, cause a local inquiry to be held.

The provisions of subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933, shall apply to an inquiry held under this subsection as they apply to inquiries held under that section, as if for references therein to a department there were substituted references to the appropriate Minister.

(4) An order under this Act shall have effect notwithstanding that the time limited or date fixed by the provisions thereby modified has expired or passed before the order takes effect.

(5) As soon as may be after making an order under this Act, the appropriate Minister shall cause to be published in the Gazette (that is to say, the London Gazette, the Edinburgh Gazette, or the Belfast Gazette, or two or all of them, as the circumstances appear to him to require), and in such other manner as appears to him to be best adapted for informing persons affected, a notice stating that the order has been made and specifying a place where copies thereof may be obtained.

(6) When an order has been made under this Act in relation to a duty or power, the order shall be treated for the purposes of this Act as a provision regulating the discharge or exercise of the duty or power, and the order may be modified accordingly by a subsequent order so made.

(7) Where the provisions regulating the discharge or exercise of a duty or power limit a time or fix a date as mentioned in subsection (1) of section one of this Act in relation to the discharge or exercise thereof on successive occasions, an application for an order under this Act in relation thereto, and any order made on that application, must be related to the discharge or exercise thereof on a particular occasion :

Provided that an order made in relation to the discharge or exercise thereof on any occasion may provide for the postponement of the next or any subsequent occasion for the discharge or exercise thereof by any period not longer than that of the extension or postponement for which the order provides in relation to that occasion. [1331]

The effect of the proviso to sub-s. (1) is that where a time limit to which this Act applies expired on or after February 21, 1940, but before the passing of the Act (April 25, 1940) an application under the Act might nevertheless be made before July 25, 1940. February 21 was the date of the introduction of the Bill for the Act; and the object of the proviso is to ensure that cases where such a time limit expired after the introduction of the Bill should not be treated differently from cases where the time limit expired after the passing of the Act. It appears that various authorities were informed in October, 1939, of the proposal to introduce a Bill on the lines of the 1915 Act and had expected that the powers contained in the Bill would be available in regard to powers which lapsed in, say, March, 1940. In some cases nothing was done towards the exercise of these powers, and the proviso is a piece of retrospective legislation, virtually reviving them.

**3. Appropriate Minister.**—(1) In this Act the expression “the appropriate Minister” means, in relation to any duty or power, the Secretary of State or other Minister of the Crown in charge of the government department concerned with the purposes for which the duty or power is imposed or conferred.

(2) If any question arises as to the Secretary of State or other Minister of the Crown to whom an application for an order under this Act should be made, the question shall be determined by the Treasury whose decision shall be final, and the validity of an order made for the purposes of this Act by a Secretary of State or other Minister of the Crown shall not be called in question on the ground that he was not the appropriate Minister.

(3) The Minister of Transport may exercise through the Electricity Commissioners any functions of his under this Act as the appropriate Minister in relation to a duty or power imposed or conferred for purposes connected with the supply of electricity. [1332]

**4. Application to Scotland.** [1333]

**5. Application to Northern Ireland.** [1334]

**6. Short title and interpretation.**—(1) This Act may be cited as the Special Enactments (Extension of Time) Act, 1940.

(2) In this Act the expression “the period of the present emergency” means the period beginning with the date of the passing of this Act and ending with such day as His Majesty may by Order in Council declare to be the day on which the emergency that was the occasion of the passing of this Act came to an end. [1335]

The date of the passing of the Act was April 25, 1940.

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## SUPERANNUATION

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ORDERS, CIRCULARS AND MEMORANDA :—

Assistance Board (Superannuation) Rules, 1940 - - - - - 477

### ORDERS, CIRCULARS AND MEMORANDA

#### ASSISTANCE BOARD (SUPERANNUATION) RULES, 1940

*S. R. & O.*, 1940, No. 1076

*June 25, 1940*

The Lords Commissioners of His Majesty's Treasury, after consultation with the Minister of Health and with the Secretary of State for Scotland, in pursuance of the powers conferred upon Them by Section 9 of the Superannuation Act, 1935, and Section 18 of the Old Age and Widows' Pensions Act, 1940, and of every other power enabling Them in that behalf hereby make the following rules :—

**1. In these Rules :—**

(a) “The Act” means the Old Age and Widows' Pensions Act, 1940, and

- (b) "The Principal Rules" mean the Local Government and Civil Service (Superannuation) Rules, 1936. [1936]

2. Parts I and II of the Principal Rules shall apply to pensionable officers or servants of local authorities to which the Principal Rules apply who become officers or servants of the Assistance Board after the date of the passing of the Act and accordingly paragraph (a) of Rule 6 of the Principal Rules shall be amended by deleting the words "of an officer of the Unemployment Assistance Board or". [1937]

3. Any pensionable officer or servant of a local authority who becomes an officer or servant of the Assistance Board within one year after the date of the passing of the Act shall be treated as a pensionable officer or servant of a local authority to which the Principal Rules apply notwithstanding that the Treasury may not have directed that the Rules shall apply to that authority and that no application may have been made by the authority in that behalf. [1938]

4.—(1) These Rules may be cited as the Assistance Board (Superannuation) Rules, 1940, and shall come into operation forthwith.

(2) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament. [1939]

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## TEACHERS

See EDUCATION.

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## TOWN AND COUNTRY PLANNING

CASES :—

Bury v. Epping Rural District Council and Essex County Council, [1940]  
4 All E. R. 377, D. C. — — — — —

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### CASES

*Compensation—When Right to Compensation accrues—Date when Scheme comes into Operation—Town and Country Planning Act, 1932 (c. 48), s. 18.*

On July 8, 1927, the first respondents passed a resolution to prepare a scheme with respect to land in their district, and the resolution was duly approved by the Minister of Health. On September 26, 1930, they resolved to provide in the scheme for the reservation of land for the construction of a road, the land reserved including certain land of which the appellant was the owner. The appellant considered his land to be ripe for building in 1930, and, on February 21, 1935, he applied for, but was refused, permission to develop the land. On January 31, 1939, he conveyed the land to the Minister of Transport for the sum of

£1,425. On July 1, 1936, the second respondents succeeded to the powers and duties of the first respondents. They revoked the resolution of the first respondents, dated July 8, 1927, and passed a fresh resolution to prepare a scheme. On March 4, 1938, they adopted a new draft scheme, and by resolution of October 4, 1938, they made a scheme which, up to the time of these proceedings, had not been finally approved in accordance with the Town Planning Act, 1932, Sched. I, Part II. Appellant claimed a sum of £533 9s. 10d. as compensation under s. 18 of the Act for injurious affection of his land by the restriction of its development from October, 1930, when it was reserved as a road, to January 31, 1939. The claim was referred to an official arbitrator, who found (i) that the resolution to prepare a scheme restricted the user of the land and injuriously affected the estate and interest of the claimant, (ii) that the land was ripe for development during 1932, and (iii) that during 1932 the appellant could have obtained the sum of £1,425 for the land. It was contended that appellant was entitled to compensation for injurious affection to his land between 1932 and 1939 :—

*Held* (HAWKE, J., *dissenting*) : a provision in a scheme cannot come into operation within the meaning of s. 18 (1) of the Act until the scheme itself is finally approved and has come into operation. Since the scheme had not come into operation and the appellant had already parted with all his interest in the land, he could not be entitled to compensation.—BURY v. EPPING RURAL DISTRICT COUNCIL AND ESSEX COUNTY COUNCIL, [1940] 4 All E. R. 377; 57 T. L. R. 111, D. C. [1340]

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## TRAFFIC SIGNALS

*See ROAD TRAFFIC.*

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## TRAMWAYS

### CASES :—

Browne v. De Luxe Car Services and Birkenhead Corpn., [1940] 4 All E. R.

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### CASES

*Repair of Road—Tramway Operated by Local Authority—Tramway discontinued and Lines filled in but Rails not removed—Abandonment of Tramway—Cesser of Liability for Repair of Road as Tramway Authority—Tramways Act, 1870 (c. 78), s. 28.*

In 1932, the tram service along a certain road which had been operated by the corporation, the second defendants, was discontinued. The tramlines were subsequently filled in with bitumen. The road itself was constructed of granite sets, which had become worn and were very slippery in wet weather. On June 27, 1939, a motor car, in passing a lorry, skidded, and killed one person, injured two others, and damaged

the property of a fourth. The evidence proved that the driver of the car was driving in a perfectly proper manner, and attempted to pass the lorry in a perfectly proper way, but it was found as a fact that the sets had become worn and were not in a proper condition :—

*Held* : although the rails had not been removed from the road, the undertaking had been abandoned, and the corporation were responsible for the condition of the road only as a highway authority, and not as a tramway authority. The corporation were, therefore, only liable for misfeasance, and not for non-feasance, and as, on the facts, there was no misfeasance, the corporation were not liable.—*BROWN v. DE LUXE CAR SERVICES AND BIRKENHEAD CORPN.*, [1940] 4 All E. R. 330. [1341]

## TREES AND HEDGES

### CASES :—

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### CASES

*Nuisance—Adjoining Owners—Roots of Trees Causing Damage to Adjoining Owners' Houses—Natural User of Land.*

Plaintiffs were the owners of two houses adjacent to land in the occupation of defendant company. In 1930 defendants planted a number of Lombardy poplar trees at a distance of from 10 to 13 feet from these houses. In 1934 a serious settlement occurred in McCarthy's house from, at the time, some unascertained cause. It was attempted to remedy the difficulty by underpinning, which for a time appeared effective. In 1937 settlements occurred in the houses of both plaintiffs and the buildings threatened to collapse. Plaintiffs claimed damages for trespass and nuisance, contending that the damage was the result of the spreading of the roots of the trees, which caused the sub-soil to lose moisture and that the foundations were damaged by the roots. Defendants contended that the facts, if proved, showed no cause of action, since the planting of the trees was a natural user of the land :—

*Held* : the action was well-founded in law, and the plaintiffs were entitled to recover.—*BUTLER v. STANDARD TELEPHONES AND CABLES, LTD., MCCARTHY v. STANDARD TELEPHONES AND CABLES, LTD.*, [1940] 1 K. B. 399; [1940] 1 All E. R. 121; 109 L. J. K. B. 238; 163 L. T. 145; 56 T. L. R. 273; 84 Sol. Jo. 189. [1342]

## TRUNK ROADS

*See HIGHWAYS.*

# TUBERCULOSIS

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# WATER SUPPLY

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## CASES

*Domestic Supply—Request to Water Company to turn off Water—Company assenting to Request and Turning off Tap in Street outside Premises—Tap turned on by Third Person and House flooded—Liability of Water Company.*

Plaintiff's son requested defendants to cut off the water supply to her house, which was then unoccupied. This they agreed to do, and subsequently notified the son that it had been done. The method adopted was to turn off a tap in the street outside the house. On returning to the house, plaintiff found that it had been flooded and thereupon sued defendants for damages for breach of contract in failing to turn off the water supply. It was not known who had turned on the tap and caused the flooding :—

*Held* : the request of plaintiff and the assent of defendants constituted a contract between them, whereby defendants assumed the duty of effectively cutting off the water supply, and defendants were liable for damage resulting from their failure to do so.—*WATSON v. SUTTON DISTRICT WATER CO.*, [1940] 3 All E. R. 502; 104 J. P. 389; 56 T. L. R. 979; 38 L. G. R. 389, C. A. [1943]

*Water Mains—Buildings over Mains—Buildings purchased by Defendants without knowledge of Existence of Mains—Right of Local Authority to Order for Demolition—Waterworks Clauses Act, 1847 (c. 17), ss. 20, 21—Public Health Act, 1875 (c. 55), s. 26—Public Health Act, 1875 (Support of Sewers) Amendment Act, 1883 (c. 37), s. 3—Public Health Act, 1936 (c. 49), s. 25.*

Plaintiff council, in pursuance of certain powers conferred upon them by statute, constructed a number of water mains which passed under land situate outside their district. A., the owner of the land at

the time the mains were laid, received compensation for damage in connection with their laying and maintenance, and later sold the land to one L., who had notice of the existence of the mains. L. built two houses on the land, and sold these houses to defendants in these actions, who had no knowledge of the existence of the mains. Plaintiffs claimed, *inter alia*, an injunction to restrain defendants from permitting their houses to remain on the land so as to prevent the free access by plaintiffs to the water mains for the purpose of maintaining and repairing them. On behalf of plaintiffs, it was contended that defendants, as owners of servient tenements, were not entitled to render the exercise of plaintiffs' right of access to the water mains impossible or substantially more difficult, and that, furthermore, if defendants' houses were allowed to remain on the land, the performance of plaintiffs' statutory duty to inspect, maintain and repair the water mains would be rendered practically impossible, and that, for these reasons, plaintiffs were entitled to a mandatory injunction ordering the demolition of defendants' houses. On behalf of defendants, it was contended, *inter alia*, that, as plaintiffs had failed to deposit a map or plan of the water mains in question with the local rural district council as required by statute, they were not entitled to a mandatory injunction. It was further contended that, as the Public Health Act, 1936, s. 25 (3), prescribed the manner in which, and the procedure by which, buildings built over water mains might be ordered to be demolished, the jurisdiction of the court to make a mandatory order was thereby ousted, or, alternatively, that the court had a discretion not to exercise that power, and ought to refuse to do so :—

*Held* : (i) as plaintiffs' right of access to the water mains had been infringed by the erection of defendants' houses, plaintiffs were entitled to the injunction asked for, whether or not they had failed to deposit a map or plan in accordance with the statutory requirements ;

(ii) as plaintiffs' consent to the erection of defendants' houses had never been asked, the Public Health Act, 1936, s. 25 (3), did not apply.

*Semble* : where a main is laid outside the district of a local authority, the builder of a house in another district through which that main passes is not required to obtain the consent of that local authority. He need only obtain the consent of the local authority within whose district he builds.—*ABINGDON BOROUGH COUNCIL v. JAMES, ABINGDON BOROUGH COUNCIL v. THANE*, [1940] Ch. 287 ; [1940] 1 All E. R. 446 ; 109 L. J. Ch. 225 ; 162 L. T. 335 ; 104 J. P. 197 ; 56 T. L. R. 373 ; 84 Sol. Jo. 134. [1344]

*Statutory Company—Power to Pay Interest from Revenue on Money Borrowed—Power to Borrow for Payment of Interest on Money Borrowed Out of Capital—Whether Power to Borrow Interest already Paid Out of Revenue—West Cheshire Water Board Act, 1925 (c. cxviii), s. 83—West Cheshire Water Board Act, 1927 (c. cxviii), ss. 41 (1) (c), 46 (1) (s).*

The West Cheshire Water Board Act, 1925, s. 83, directs appellants to pay out of revenue interest on moneys borrowed for the purposes of appellants' undertaking. By the West Cheshire Water Board Act, 1927, s. 46 (1) (d), appellants may borrow for the payment out of capital of interest on money borrowed for the construction of works until the completion thereof. For nine years appellants paid the interest out of revenue amounting to £51,000. Thereafter, as they required money to extend their works, appellants sought to borrow the sum of £51,000,

by virtue of the powers conferred by s. 46 (1) (d) of the Act of 1927, for the payment out of capital of interest on money borrowed for the construction of works, which sum had already been paid out of revenue by way of interest. This item was disallowed by the district auditor :—

*Held* : (i) the auditor was right in holding that s. 46 (1) (d) of the Act of 1927 does not empower appellants to borrow the sum for the purpose of paying out of capital interest already paid in previous years out of revenue under s. 83 of the Act of 1925 ;

(ii) as s. 83 of the Act of 1925 provides for the apportionment of any surplus of revenue among the constituent authorities, it is of vital importance that the statutes should be complied with.—*WEST CHESHIRE WATER BOARD v. CROWE*, [1940] 1 K. B. 793 ; [1940] 2 All E. R. 351 ; 109 L. J. K. B. 590 ; 163 L. T. 155 ; 104 J. P. 231 ; 56 T. L. R. 603 ; 84 Sol. Jo. 416 ; 38 L. G. R. 243, D. C. [1345]

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## WELSH BOARD OF HEALTH

*See* GOVERNMENT CONTROL.

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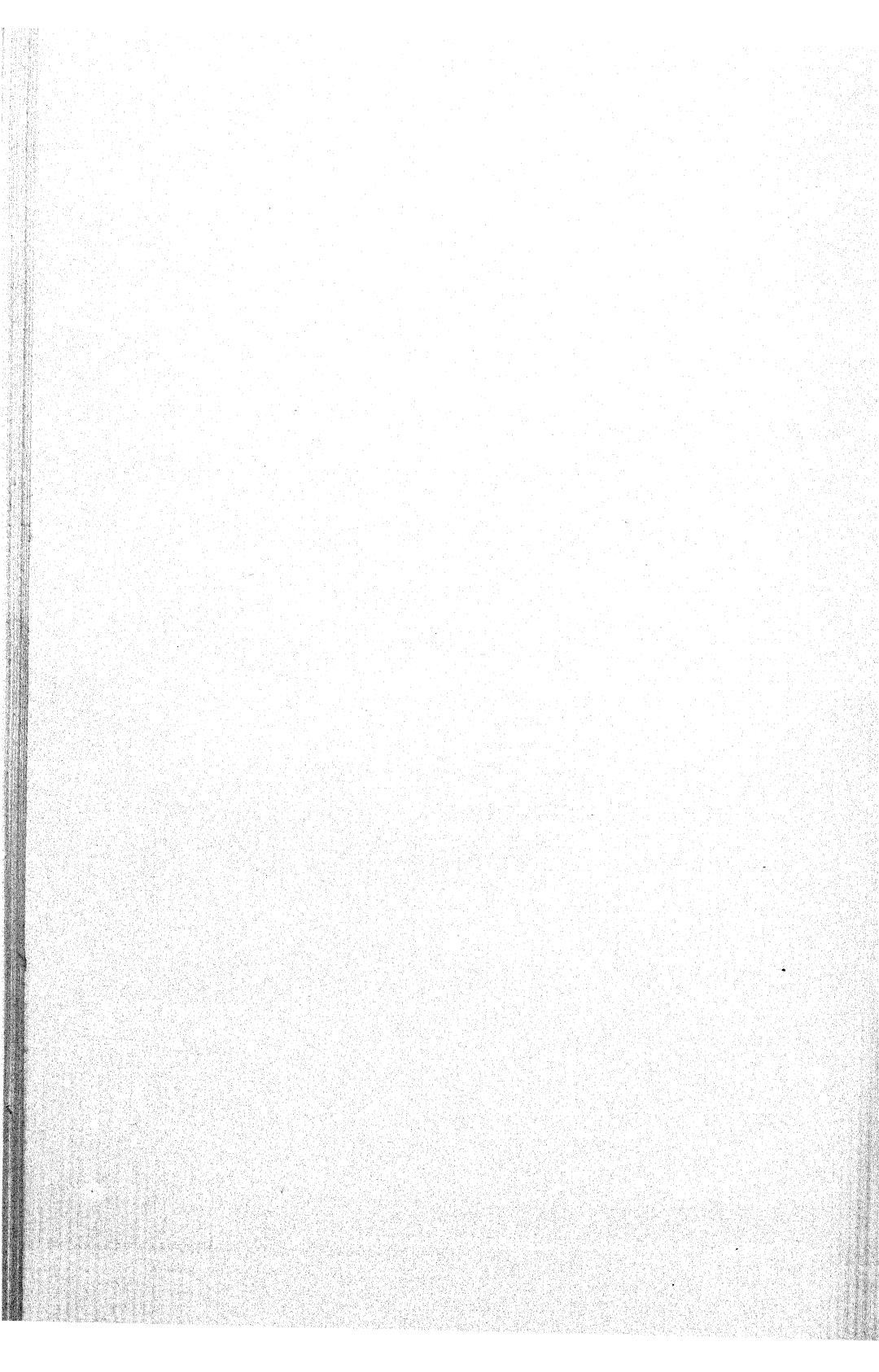
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## WILD BIRDS

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